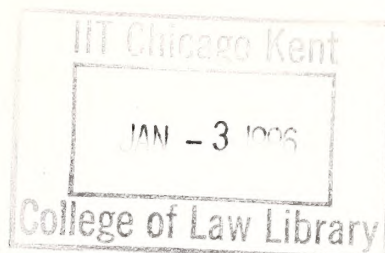
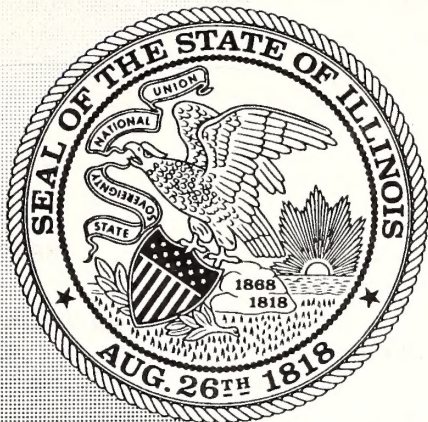


FI1735  
A21  
RESERVE



**1995**

# ***Illinois Register***

---

## **Rules of Governmental Agencies**

Volume 19, Issue 52— December 29, 1995

Pages 16881 - 17219

---

Index Department  
Administrative Code Div.  
111 East Monroe Street  
Springfield, IL 62756  
(217) 782-7017

published by  
**George H. Ryan**  
Secretary of State



Printed on recycled paper



## TABLE OF CONTENTS

December 29, 1995 Volume 19, Issue 52

### PROPOSED RULES

#### TRANSPORTATION, DEPARTMENT OF

##### Carriage By Public Highway

92 Ill. Adm. Code 177 .....16881

##### Continuing Qualification And Maintenance Of Packaging

92 Ill. Adm. Code 180 .....16885

##### General Information, Regulations And Definitions

92 Ill. Adm. Code 171 .....16890

##### Hazardous Materials Table And Hazardous Materials Communications

92 Ill. Adm. Code 172 .....16900

##### Procedures

92 Ill. Adm. Code 107 .....16905

##### Shippers General Requirements For Shipments And Packagings

92 Ill. Adm. Code 173 .....16912

##### Specifications For Packagings

92 Ill. Adm. Code 178 .....16918

##### Specifications For Tank Cars

92 Ill. Adm. Code 179 .....16929

### ADOPTED RULES

#### AGRICULTURE, DEPARTMENT OF

##### Egg And Egg Products Act

8 Ill. Adm. Code 65 .....16933

#### ATTORNEY GENERAL

##### Franchise Disclosure Act

14 Ill. Adm. Code 200 .....16950

#### CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

##### Confidentiality Of Personal Information Of Persons Served By The Department

89 Ill. Adm. Code 431 .....17082

#### COMMERCE COMMISSION, ILLINOIS

##### Telecommunications Access For The Hearing And Voice Impaired

83 Ill. Adm. Code 755 .....17105

#### INSURANCE, DEPARTMENT OF

##### Credit Life And Credit Accident And Health Insurance

50 Ill. Adm. Code 951 .....17145

#### PROFESSIONAL REGULATION, DEPARTMENT OF

##### Optometric Practice Act Of 1987

68 Ill. Adm. Code 1320 .....17150

**RACING BOARD, ILLINOIS**

**Admissions And Credentials**

11 Ill. Adm. Code 1428 .....17187

**Licensing**

11 Ill. Adm. Code 502 .....17190

**REVENUE, DEPARTMENT OF**

**Motor Fuel Tax**

86 Ill. Adm. Code 500 .....17195

**JOINT COMMITTEE ON ADMINISTRATIVE RULES-  
STATEMENT OF OBJECTIONS, SUSPENSIONS, RECOMMENDATIONS,  
PROHIBITED FILINGS & APPROVALS**

**AGRICULTURE, DEPARTMENT OF**

**Egg And Egg Products Act**

8 Ill. Adm. Code 65, (Recommendation) .....17201

**COMMERCE AND COMMUNITY AFFAIRS, DEPARTMENT OF**

**State Administration Of The Federal Community Services Block Grant  
Program**

47 Ill. Adm. Code 120, (Objection) .....17203

**PROFESSIONAL REGULATION, DEPARTMENT OF**

**Private Detective, Private Alarm And Private Security Act Of 1993**

68 Ill. Adm. Code 1240, (Objection) .....17204

**PUBLIC HEALTH, DEPARTMENT OF**

**Food Service Sanitation Code**

77 Ill. Adm. Code 750, (Recommendation) .....17205

**Retail Food Store Sanitation Code**

77 Ill. Adm. Code 760, (Recommendation) .....17207

**JOINT COMMITTEE ON ADMINISTRATIVE RULES - NOTICE OF FAILURE TO REMEDY**

**PROFESSIONAL REGULATION, DEPARTMENT OF**

**Illinois Public Accounting Act**

68 Ill. Adm. Code 1420 .....17209

**NOTICE OF PUBLIC INFORMATION**

**PUBLIC AID, DEPARTMENT OF**

**Notice Of Long Term Care Reimbursement Changes .....17210**

**REVENUE, DEPARTMENT OF**

**Uniform Penalty And Interest Act .....17211**



## REGULATORY AGENDA

### CAPITAL DEVELOPMENT BOARD

Rules Of The Capital Development Board

2 Ill. Adm. Code 1650 .....17212

### LOTTERY, DEPARTMENT OF

Lottery (General)

11 Ill. Adm. Code 1770 .....17213

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received .....17214

## EXECUTIVE ORDERS AND PROCLAMATIONS

### PROCLAMATIONS

95-580 Compassionate Friends Week .....17216  
95-581 Five Hospital Homebound Elderly Program Week .....17216  
95-582 Randolph County Commended .....17216  
95-583 Rakkasan Week .....17217  
95-584 Special Election for Representative in 104th U.S.  
Congress from Second Congressional District .....17217  
95-585 Five Hospital Homebound Elderly Program Week  
(Revised) .....17218  
95-586 Pearl Harbor Remembrance Day .....17218

ISSUES INDEX.....I-1

**Editor's Note:** The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 14, 1995 - Issue 15: Through	March 31, 1995
July 14, 1995 - Issue 28: Through	June 30, 1995
October 13, 1995 - Issue 41: Through	September 30, 1995
January 12, 1996 - Issue 2: Through	December 31, 1995 (Annual)



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Carriage by Public Highway

2) Code Citation: 92 Ill. Adm. Code 177

3) Section Numbers: Proposed Action:

177.2000 Amend

4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

5) A Complete Description of the Subjects and Issues Involved: By this Notice of Proposed Amendments, the Department proposes to update the date of incorporation by reference of 49 CFR 177, as of October 1, 1994, and to include the federal rulemaking adopted at 59 FR 67390, December 29, 1994 and 60 FR 50292, September 28, 1995.

The Department's regulations will incorporate changes made in the following Docket:

Docket HM-215A (59 FR 67390, December 29, 1994) amends the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. These revisions are necessary to facilitate the transport of hazardous materials in international commerce.

Docket HM-169A (60 FR 50292, September 28, 1995) amends the Hazardous Materials Regulations pertaining to the transportation of radioactive materials to harmonize them with the International Atomic Energy Agency. The intended effect is to increase the level of safety and facilitate international commerce concerning the transportation of radioactive materials.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes. These conform to Section 5.75(a) of the Illinois Administrative Procedure Act.

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

arguments concerning this proposed rule. Written submission shall be filed with:

By U.S. Mail:

Ms. Cathy Allen  
Regulations Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, IL 62794-9212  
(217) 785-1135

By Messenger or Inter-Agency Mail:

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety; 3rd Floor  
Springfield, IL

JCAR request, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, IL 62764  
(217) 782-5597

Comments received within forty-five days of the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking affects small businesses which transport placarded hazardous materials.

B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements necessary for compliance.

C) Types of professional skills necessary for compliance: No additional skills necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

## TITLE 92: TRANSPORTATION

## CHAPTER I: DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

## PART 177

## CARRIAGE BY PUBLIC HIGHWAY

Section  
177.1000 General  
177.2000 Incorporation By Reference of 49 CFR 177

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 4 Ill. Reg. 30, p. 1244, effective July 10, 1980; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; codified at 8 Ill. Reg. 18930; Part repealed, new Part adopted at 10 Ill. Reg. 5853, effective April 1, 1986; amended at 10 Ill. Reg. 20749, effective December 1, 1986; amended at 11 Ill. Reg. 4768, effective March 10, 1987; amended at 11 Ill. Reg. 17881, effective October 20, 1987; amended at 12 Ill. Reg. 8074, effective April 26, 1988; amended at 13 Ill. Reg. 3957, effective March 14, 1989; amended at 14 Ill. Reg. 2613, effective February 1, 1990; amended at 15 Ill. Reg. 7743, effective May 7, 1991; amended at 16 Ill. Reg. 11843, effective July 13, 1992; amended at 18 Ill. Reg. 7852, effective May 6, 1994; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 177.2000 Incorporation By Reference of 49 CFR 177

- a) As Part 177 of the Illinois Hazardous Materials Transportation Regulations the Department incorporates 49 CFR 177 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1994 1992; as amended at 59 FR 67390, December 29, 1994; and as amended at 60 FR 50292, September 28, 1995 57-PR-465137-October--187--19927--as--amended--at--57--PR--593087 December--157--19927--as--amended--at--58-PR-58587-January-227-19937-as amended-at-58-PR-502247-September-347-19937-as-amended-at-58-PR-504967 September-277-1993, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 177 are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 177 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 177 of the Illinois Hazardous Materials Transportation Regulations.
  - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Parts 174, 175 or 176, or to sections therein shall be read to refer to those Parts or sections in the federal hazardous materials transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) All references to motor vehicles engaged in interstate commerce shall be deemed to include any motor vehicle engaged in commerce within the State of Illinois.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Continuing Qualification and Maintenance of Packaging
- 2) Code Citation: 92 Ill. Adm. Code 180
- 3) Section Numbers: Proposed Action:  
180.2000 Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice of Proposed Amendments, the Department proposes to update the date of incorporation by reference of 49 CFR 180, as of October 1, 1994, and to include the federal rulemakings adopted at 59 FR 55162, November 3, 1994; 60 FR 17398, April 5, 1995; and 60 FR 49048, September 21, 1995.  
  
The Department's regulations will incorporate changes made in the following Dockets:  
  
Docket HM-183C (59 FR 55162, November 3, 1994) amends certain requirements for the manufacture, qualification and maintenance of cargo tank motor vehicles.  
  
Docket HM-183C (60 FR 17398, April 5, 1995) amends the final rule of November 3, 1994 to revise design loading requirements for MC 331 cargo tank motor vehicles. These revisions also make other minor editorial and technical changes.  
  
Docket HM-175A and HM-201 (60 FR 49048, September 21, 1995) amends the regulations to enhance safe transportation of hazardous materials in tank cars. These revisions are intended to improve crashworthiness of tank cars and to increase the probability of detecting tank car defects.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes. These conform to Section 5.75(a) of the Illinois Administrative Procedure Act.
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submission should be filed with:

By U.S. Mail:

Ms. Cathy Allen  
Regulations Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, IL 62794-9212  
(217) 785-1135

By Messenger or Inter-Agency Mail:

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety, 3rd Floor  
Springfield, IL

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, IL 62764  
(217) 782-5597

Comments received within forty-five days of the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking affects small businesses which transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

The full text of the Proposed Amendment begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

## PART 180

## CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGING

## Section

180.1000 General

180.2000 Incorporation by Reference of 49 CFR 180

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 14 Ill. Reg. 2617, effective February 1, 1990; amended at 15 Ill. Reg. 7748, effective May 7, 1991; amended at 16 Ill. Reg. 11847, effective July 13, 1992; amended at 18 Ill. Reg. 7857, effective May 6, 1994; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 180.2000 Incorporation by Reference of 49 CFR 180

- a) As Part 180 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 180 by reference, as that Part of the federal hazardous material transportation regulations was in effect on October 1, 1994 1992; as amended at 59 FR 55162, November 3, 1994; as amended at 60 FR 17398, April 5, 1995; and as amended at 60 FR 49048, September 21, 1995 58-PR-12904-March-07-1993; as amended at 58-PR-50224-September-24-1993, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 180 are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 180 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 180 of the Illinois Hazardous Materials Transportation Regulations.
  - 2) All references to "this chapter" or "this Subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.
  - 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
  - 4) All references to Parts 174, 175, 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous material transportation regulations.
  - 5) All references to shipments of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

materials.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: General Information, Regulations and Definitions2) Code Citation: 92 Ill. Adm. Code 1713) Section Numbers: Proposed Action:

171.2 Amend

171.3 Amend

171.5 Amend

171.21 Amend

171.1000 Amend

4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

5) A Complete Description of the Subjects and Issues Involved: By this Notice of Proposed Amendments, the Department proposes to update the date of incorporation by reference of 49 CFR 171, as of October 1, 1994, and to include the federal rulemakings adopted at 59 FR 53116, October 21, 1994; 59 FR 55162, November 3, 1994; 59 FR 64742, December 15, 1994; 59 FR 67390, December 29, 1994; as amended at 60 FR 26796, May 18, 1995; 60 FR 39608, August 2, 1995; 60 FR 40030, August 4, 1995; 60 FR 48780, September 20, 1995; 60 FR 49048, September 21, 1995; 60 FR 49106, September 21, 1995; and 60 FR 50292, September 28, 1995.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-181G (59 FR 53116, October 21, 1994) confirms that the compliance dates for classification, hazard communication and packaging requirements applicable to infectious substances are extended.

Docket HM-183C (59 FR 55162, November 3, 1994) amends certain requirements for the manufacture, qualification and maintenance of cargo tank motor vehicles.

Docket HM-197 (59 FR 64742, December 15, 1994) establishes standards for transporting portable tanks containing certain hazardous materials in container-on-flatcar or trailer-on-flatcar service without obtaining prior approval from the Federal Railroad Administration.

Docket HM-215A (59 FR 67390, December 29, 1994) amends the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. These revisions are necessary to facilitate the transport of hazardous materials in international commerce.

Docket HM-215A (60 FR 26796, May 18, 1995) corrects errors found in the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

final rule of December 29, 1994.

Docket HM-145K (60 FR 39608, August 2, 1995) revises the "List of Hazardous Substances and Reportable Quantities" which appears in an appendix to the Hazardous Materials Table. These revisions enable shippers and carriers to identify Comprehensive Environmental Response, Compensation and Liability Act of 1980 hazardous substances, thereby enabling them to comply with all applicable HMR requirements and to make the required notifications if discharge of a hazardous substance occurs.

Docket HM-181E (60 FR 40030, August 4, 1995) clarifies and corrects a final rule of July 26, 1994 regarding requirements for the construction, maintenance and use of intermediate bulk containers for the transportation of hazardous materials.

Docket HM-181G (60 FR 48780, September 20, 1995) amends the requirements for infectious substances to clarify the scope of the regulations and to provide limited relief for regulated medical waste.

Docket HM-175A and HM-201 (60 FR 49048, September 21, 1995) amends the regulations to enhance the safe transportation of hazardous materials in tank cars. These revisions are intended to improve crashworthiness of tank cars and to increase the probability of detecting tank car defects.

Docket HM-189L (60 FR 49106, September 21, 1995) corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.

Docket HM-169A (60 FR 50292, September 28, 1995) amends the Hazardous Materials Regulations pertaining to the transportation of radioactive materials to harmonize them with those of the International Atomic Energy Agency. The intended effect is to increase the level of safety and facilitate international commerce concerning the transportation of radioactive materials.

Sections 171.2(a), (b) and (d) are also being amended to include the requirement that persons engaged in the transportation of hazardous materials be in compliance with the registration requirements of Subpart E of 92 Ill. Adm. Code 107. This language is added for consistency with 49 CFR 171.

Section 171.3(d) is being amended to correct language. The new language is now consistent with 49 CFR 171.

Section 171.5(a) is being amended to include Class 8 and Class 9 agricultural pesticides. Class 8 and 9 pesticides can now be included in the regulations' agricultural exception.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

Section 171.21(a) is being amended for clarification purposes. The specific hazardous material is not listed in Table 2. Table 2 only lists the Hazard class or division number pertaining to the specific hazardous material.

Section 171.21(a)(1) is being amended to remove unnecessary language and to include a reference to 49 CFR 171.24(a) for consistency with 49 CFR 171.

Section 171.1000(b)(6) is being amended to correct a typographical error and to remove a reference to 92 Ill. Adm. Code 397. Part 397 was removed from the Hazardous Materials Transportation Regulations and added to the Illinois Motor Carrier Safety Regulations a number of years ago.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes. These conform to Section 5.75(a) of the Illinois Administrative Procedure Act.

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail

Ms. Cathy Allen  
Regulations Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
PO Box 19212  
Springfield, IL 62794-9212  
(217) 785-1135

By Messenger or Inter-Agency Mail:

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety; 3rd Floor  
Springfield, IL



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

JCAR requests comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, IL 62764  
(217) 782-5597

Comments received within forty-five days of the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking affects small businesses which transport placarded hazardous materials.

B) Reporting, bookkeeping or other procedures required for compliance:  
No additional requirements necessary for compliance.

C) Types of professional skills necessary for compliance: No additional skills necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

## PART 171

## GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

Section	Purpose and Scope
171.1	General Transportation Requirements
171.2	Hazardous Waste
171.3	Exemptions (Renumbered)
171.4	Agricultural Exception
171.5	Matter Incorporated by Reference (Repealed)
171.6	Definitions and Abbreviations (Repealed)
171.7	Rules of Construction (Repealed)
171.8	Import and Export Shipments (Repealed)
171.12	Specification Markings (Repealed)
171.14	Incident Reporting Requirements
171.15	Exemptions
171.17	Continuation of Effectiveness of Existing Bureau of Explosives Registrations (Repealed)
171.18	Approvals or Authorizations Issued by the Bureau of Explosives (Repealed)
171.19	Retailer Exception
171.21	Incorporation by Reference of 49 CFR 171
171.1000	

**AUTHORITY:** Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

**SOURCE:** Adopted at 3 Ill. Reg. 5, p. 41, effective February 1, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; codified at 8 Ill. Reg. 17984; amended at 10 Ill. Reg. 9636, effective May 15, 1986; amended at 10 Ill. Reg. 20753, effective December 1, 1986; emergency amendment at 11 Ill. Reg. 1684, effective January 16, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 4772, effective March 10, 1987; amended at 11 Ill. Reg. 7767, effective April 14, 1987; amended at 11 Ill. Reg. 17886, effective October 20, 1987; amended at 12 Ill. Reg. 8078, effective April 26, 1988; amended at 13 Ill. Reg. 3984, effective March 14, 1989; amended at 14 Ill. Reg. 2621, effective February 1, 1990; amended at 15 Ill. Reg. 7752, effective May 7, 1991; amended at 16 Ill. Reg. 12208, effective July 20, 1992; amended at 18 Ill. Reg. 7861, effective May 6, 1994; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 171.2 General Transportation Requirements**

- a) No person may offer or accept a hazardous material for transportation

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

by highway in Illinois unless that person complies with Subpart E of 92 Ill. Adm. Code 107 and the hazardous material is properly classified, described, packaged, marked, labeled, placarded and in the condition for shipment as required by these regulations.

b) Unless specifically excepted by these regulations no person may accept for transportation or transport a hazardous material by highway in Illinois unless that person complies with Subpart E of 92 Ill. Adm. Code 107 and the hazardous material is handled and transported in accordance with this Subchapter.

c) No person may offer, accept, or transport a hazardous material by highway in Illinois, regardless of the quantity of hazardous material in the shipment or on the vehicle, if that material poses an imminent danger to the public. The State Police are authorized to stop any vehicle that constitutes an imminent danger. For the purpose of this Section, an imminent danger exists if, in the opinion of the State Police officer or the representative of the Department at the scene, the offer, acceptance, or transportation of that hazardous material is likely to cause death, serious illness, or severe personal injury.

d) No person may offer or accept for transportation or transport any quantity of radioactive material by highway in Illinois unless that person complies with Subpart E of 92 Ill. Adm. Code 107 and the hazardous material is properly classified, described, packaged, marked, labeled, placarded, handled and transported in accordance with these regulations.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 171.3 Hazardous Waste

a) No person may offer for transportation or transport a hazardous waste (as defined in Section 171.8) by highway in Illinois except in accordance with the requirements of this Subchapter.

b) No person may accept for transportation, transport, or deliver a hazardous waste for which a manifest is required unless that person:--  
1) has marked each motor vehicle used to transport hazardous waste in accordance with 92 Ill. Adm. Code 390.21 397-21 or 49 CFR 1058.2 even though placards may not be required;

2) complies with the requirement for manifests set forth in 92 Ill. Adm. Code 172.205; and

3) delivers, as designated on the manifest by the generator, the entire quantity of the waste received from the generator or a transporter to:--

- A) the designated facility or, if not possible, to the designated alternate facility;
- B) the designated subsequent carrier; or
- C) a designated place outside the United States.

c) If a discharge of hazardous waste or other hazardous material occurs

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

during transportation, and an official of a State or local government or a Federal agency, acting within the scope of his official responsibilities, determines that immediate removal of the waste is necessary to prevent further consequence, that official may authorize the removal of the waste without the preparation of a manifest.

d) If a hazardous material that is a hazardous waste is required by this Subchapter to be shipped in a closed head drum (i.e., a drum with a 7.0 cm (3 inches) or less bung opening) and the hazardous waste contains solids or semisolids that make its placement in a closed head drum impracticable, an equivalent (except for closure) open head drum may be used for the hazardous waste. If a hazardous material that is a hazardous waste is required by this Subchapter to be shipped in a closed head drum, specification of drum and the hazardous waste contains solids or semisolids that would make its placement in a closed head drum impracticable (e.g., a drum with a 2.3-inch bung opening) an equivalent specification of open head drum (except for closure) may be used for such a waste.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 171.5 Agricultural Exception

This Part and Driving and Parking; 92 Ill. Adm. Code 397 do not apply to the transportation of those hazardous materials cited below when such commodities are transported from retailer to final agricultural end user, or between final end users from farm to farm in approved containers and in the amounts and manner specified:

a) Agricultural pesticides classified as Class 3, Class 8, Class 9 or Division 6.1 noninhalation hazard by these regulations, when moved in quantities of 2,268 kilograms (5,000 pounds) or less (aggregate gross weight) or 1,893 liters (500 gallons) or less volume in solution.<sup>7</sup>

b) Gasoline, diesel fuels, oils, lubricants, and liquefied petroleum gas, when moved in quantities of 11,356 liters (3,000 gallons) or less and properly placarded in accordance with 92 Ill. Adm. Code 172.504(a).

c) Ammonium nitrate fertilizer, when moved in quantities of 7,257 kilograms (16,000 pounds) (aggregate gross weight) or less.

d) Anhydrous ammonia when transported in a cargo tank (commonly known as a nurse tank and considered an implement of husbandry) operated by private carriers exclusively for agricultural purposes, provided the cargo tank:

- 1) Has a minimum design pressure of 250 pounds per square inch (p.s.i.) and meets the requirements of the ASME code in effect at time of manufacture and is marked accordingly;
- 2) Is equipped with safety relief valves meeting the requirements of CGA Pamphlet SL-2;
- 3) Is painted white or aluminum;
- 4) Has a capacity of 7,571 liters (2,000 gallons) or less;



DEPARTMENT OF TRANSPORTATION  
NOTICE OF PROPOSED AMENDMENT

- 5) Is loaded to a filling density of 56 percent of water density (85 percent of volume capacity);
- 6) Is securely mounted on a farm wagon; and
- 7) Is in conformance with the requirements of 92 Ill. Adm. Code 172; except that shipping papers are not required; and it need not be marked or placarded on one end if that end contains valves, fittings, regulators, gauges, or other appurtenances that prevent the marking and placard from being properly placed and visible.
- e) Formulated agricultural chemicals not listed in subsections (a) or (c) above which are offered for transportation in less-than-case lot quantities, or when repackaged, are not subject to 92 Ill. Adm. Code Part 173 if all of the following conditions are met:
- 1) Inside packaging are enclosed in strong outside packagings. Inside liquid packagings are cushioned, if necessary, to prevent breakage and leakage;
- 2) Each inside packaging does not exceed 10 liters (2.6 gallons) capacity for liquids or 15 kilograms (33 pounds) for dry materials;
- 3) Gross weight of less-than-case or repackaged lots is not over 50 kilograms (110 pounds) in each vehicle;
- 4) Transportation is authorized only by private motor vehicle between a final distribution point and the ultimate point of application, if that distance does not exceed one hundred miles.
- f) Formulated liquid agricultural chemicals in specification packagings of 220 liters (58 gallons) capacity, or less, with closures manifolded to a closed mixing system and equipped with positive dry disconnect devices may be transported by a private motor carrier between a final distribution point and an ultimate point of application or loading aboard an aircraft for aerial application.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 171.21 Retailer Exception**

- a) Hazardous materials with Hazard class or division numbers listed in Table 2 of 49 CFR 172.504(e) which are transported in less than case-lot quantities or when repackaged to comply with the quantity limitations prescribed in subsection (b) are not subject to these regulations if all of the following conditions are met:
- 1) Packagings of hazardous materials are enclosed in strong outside packages (49 CFR 171.8), cushioned, if necessary, to prevent breaking and leakage (49 CFR 173.24 and 173.24a) ~~further-amendments-or-editions-included;~~
- 2) Gross weight of less-than-case lots and single unit packagings is not over 45 kilograms (100 pounds) per vehicle;
- 3) Transportation is by private motor vehicle, in intrastate

DEPARTMENT OF TRANSPORTATION  
NOTICE OF PROPOSED AMENDMENT

- commerce, between a final distribution point and a retail establishment or between a retail establishment and a final end user; and
- 4) The distance to be travelled does not exceed 161 kilometers (100 miles).
- b) Each packaging of hazardous materials subject to this exception shall not exceed the quantity limits established below:
- 1) For liquids, 19 liters (5 gallons).
- 2) For dry materials, 11 kilograms (25 pounds).
- 3) For compressed gases:
- A) In containers of not more than four fluid ounces capacity (7.22 cubic inches or less); or
- B) In metal containers, with pressure not exceeding 180 psig at 130° F, not to exceed 27.7 fluid ounces (50 cubic inches);
- C) For freon, authorized cylinders not to exceed 30 pound capacity; or
- D) Any other packaging authorized as inside packaging by 92 Ill. Adm. Code 173.306.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 171.1000 Incorporation by Reference of 49 CFR 171**

- a) As Part 171 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates the following sections of 49 CFR 171 by reference, as those sections of the federal hazardous materials transportation regulations were in effect on October 1, 1994 ~~1992~~, as amended at 59 FR 53116, October 21, 1994; as amended at 59 FR 55162, November 3, 1994; as amended at 59 FR 64742, December 15, 1994; as amended at 59 FR 67390, December 29, 1994; as amended at 60 FR 26796, May 18, 1995; as amended at 60 FR 39608, August 2, 1995; as amended at 60 FR 40030, August 4, 1995; as amended at 60 FR 48780, September 20, 1995; as amended at 60 FR 49048, September 21, 1995; as amended at 60 FR 49106, September 21, 1995; and as amended at 60 FR 50292, September 28, 1995, 57-FR-475137-October-18-19927--as-amended-at-57-FR-529387-November-5-19927--as-amended-at-57-FR-594887-December-15-19927--as-amended-at-57-FR-607387-December-22-19927--as-amended-at-58-FR-60647-February-27-19937--as-amended-at-58-FR-109857-February-27-19937--as-amended-at-58-FR-333827-June-16-19937--as-amended-at-58-FR-502447-September-24-19937--as-amended-at-58-FR-594967-September-27-19937 subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of those sections of 49 CFR 171 are incorporated.

- 171.4 Marine Pollutions  
171.7 Referenced Material  
171.8 Definitions and Abbreviations

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- 171.9 Rules of Construction  
 171.10 Units of Measure  
 171.11 Use of ICAO Technical Instructions  
 171.12 Import and Export Shipments  
 171.12a Canadian Shipments and Packagings  
 171.14 Transitional Provisions for Implementing Requirements Based on the UN Recommendations  
 171.18 Continuation of Effectiveness of Existing Bureau of Explosives Registrations  
 171.19 Approvals or Authorizations Issued by the Bureau of Explosives  
 171.20 Submission of Examination Reports
- b) The following interpretations of, additions to and deletions from the above incorporated sections of 49 CFR 171 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 171 of the Illinois Hazardous Materials Transportation Regulations.
  - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
  - 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
  - 4) All references to Part 176 or to sections therein shall be read to refer to that part or sections in the federal regulations.
  - 5) All references to shipments of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
  - 6) All references to "these regulations" refers to the Illinois Hazardous Materials Transportation Regulations, 92 Ill. Adm. Code 107.102 through 180 and 397.
  - 7) All references to a "settlement agreement", in these regulations, means a written understanding between the Department and the person being charged.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hazardous Materials Table and Hazardous Materials Communication
- 2) Code Citation: 92 Ill. Adm. Code 172
- 3) Section Numbers: Proposed Action:  
 172.2000 Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice of Proposed Amendments, the Department proposes to update the date of incorporation by reference of 49 CFR 172 as of October 1, 1994, and to include the federal rulemakings adopted at 59 FR 67390, December 29, 1994; 60 FR 26796, May 18, 1995; 60 FR 39608, August 2, 1995; 60 FR 39991, August 4, 1995; 60 FR 40030, August 4, 1995; 60 FR 48780, September 20, 1995; 60 FR 49048, September 21, 1995; 60 FR 49106, September 21, 1995; and 60 FR 50292, September 28, 1995.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-215A (59 FR 67390, December 29, 1994) amends the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. These revisions are necessary to facilitate the transport of hazardous materials in international commerce.

Docket HM-215A (60 FR 26796, May 18, 1995) corrects errors found in the final rule of December 29, 1994.

Docket HM-145K (60 FR 39608, August 2, 1995) revises the "List of Hazardous Substances and Reportable Quantities" which appears in an appendix to the Hazardous Materials Table. These revisions enable shippers and carriers to identify Comprehensive Environmental Response, Compensation and Liability Act of 1980 hazardous substances, thereby enabling them to comply with all applicable HMR requirements and to make the required notifications if discharge of a hazardous substance occurs.

Docket HM-181E (60 FR 40030, August 4, 1995) clarifies and corrects a final rule of July 26, 1994 regarding requirements for the construction, maintenance and use of intermediate bulk containers for the transportation of hazardous materials.

Docket HM-181G (60 FR 48780, September 20, 1995) amends the requirements for infectious substances to clarify the scope of the regulations and to



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

provide limited relief for regulated medical waste.

Docket HM-175A and HM-201 (60 FR 49048, September 21, 1995) amends the regulations to enhance the safe transportation of hazardous materials in tank cars. These revisions are intended to improve crashworthiness of tank cars and to increase the probability of detecting tank car defects.

Docket HM-189L (60 FR 49106, September 21, 1995) corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.

Docket HM-169A (60 FR 50292, September 28, 1995) amends the Hazardous Materials Regulations pertaining to the transportation of radioactive materials to harmonize them with those of the International Atomic Energy Agency. The intended effect is to increase the level of safety and facilitate international commerce concerning the transportation of radioactive materials.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes. These conform to Section 5.75(a) of the Illinois Administrative Procedure Act.

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Cathy Allen  
Regulations Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, IL 62794-9212  
(217) 785-1135

By Messenger or Inter-Agency Mail:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety, 3rd Floor  
Springfield, IL

JCAR requests comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, IL 62764  
(217) 782-5597

Comments received within forty-five days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

## 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking affects small businesses which transport placarded hazardous materials.

B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements necessary for compliance.

C) Types of professional skills necessary for compliance: No additional skills necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION  
 CHAPTER 1: DEPARTMENT OF TRANSPORTATION  
 SUBCHAPTER c: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

## PART 172

## HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS

Section	General
172.1000	Incorporation by Reference of 49 CFR 172
172.2000	Permanent Shipping Papers (Repealed)
172.2215	

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 6 Ill. Reg. 4287, 4487 and 4573, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; amended at 8 Ill. Reg. 19640, effective October 1, 1984; codified at 8 Ill. Reg. 19601; amended at 8 Ill. Reg. 19622, effective October 1, 1984; emergency amendment at 8 Ill. Reg. 22889, effective November 9, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3810, effective March 11, 1985; Part repealed, new Part adopted at 10 Ill. Reg. 5864, effective April 1, 1986; amended at 10 Ill. Reg. 20759, effective December 1, 1986; emergency amendment at 11 Ill. Reg. 1690, effective January 16, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 4777, effective March 10, 1987; amended at 11 Ill. Reg. 7773, effective April 14, 1987; amended at 11 Ill. Reg. 17893, effective October 20, 1987; amended at 12 Ill. Reg. 8084, effective April 26, 1988; amended at 13 Ill. Reg. 3993, effective March 14, 1989; amended at 14 Ill. Reg. 2628, effective February 1, 1990; amended at 15 Ill. Reg. 7760, effective May 7, 1991; amended at 16 Ill. Reg. 11851, effective July 13, 1992; amended at 18 Ill. Reg. 7874, effective May 6, 1994; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 172.2000 Incorporation by Reference of 49 CFR 172

- a) As Part 172 of the Illinois Hazardous Materials Transportation Regulations the Department incorporates 49 CFR 172 by reference, as that Part of the federal hazardous material transportation regulations was in effect on October 1, 1994 1992; as amended at 59 FR 67390, December 29, 1994; as amended at 60 FR 62796, May 18, 1995; as amended at 60 FR 39608, August 2, 1995; as amended at 60 FR 39991, August 4, 1995; as amended at 60 FR 40030, August 4, 1995; as amended at 60 FR 48780, September 20, 1995; as amended at 60 FR 49048, September 21, 1995; as amended at 60 FR 49106, September 21, 1995; and as amended at 60 FR 50292, September 28, 1995 57-PR-475137-October-167-19927-as amended-at-57-PR-59300-November-57-19927-as-amended-at-57-PR-593007-December-157-19927-as-amended-at-50-PR-33447-January-67-19937-as amended-at-50-PR-50507-January-227-19937-as-amended-at-50-PR-60647

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

February--277-19937--as--amended--at-50-PR-00207-February-177-19937-as amended-at-50-PR-33302-June-167-19937-as--amended--at-50-PR-502247-September-247--19937--as--amended-at-50-PR-504967-September-277-19937, subject only to the exceptions in subsection (b) of this Section and Section--172-2215. No later amendments to or editions of 49 CFR 172 are incorporated.

- b) The following interpretations of, additions to and deletions from 49 CFR 172 shall apply for purposes of this Part.

- 1) All references to "this part" in the incorporated federal Regulations shall mean Part 172 of the Illinois Hazardous Materials Transportation Regulations.
- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Parts 174, 175, or 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous material transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) Any changes to 49 CFR 172 made effective by U.S. DOT Rulemaking Docket HM-187 [49 FR 21933 (May 24, 1984)] covering small arms ammunition are not incorporated.
- 7) The schedule established in Section 172.704 for implementation of a training program is modified as follows:
  - A) Part 172.704(c)(1)(i) is modified to require intrastate hazmat employees employed on or before July 2, 1994 to complete training prior to October 1, 1994.
  - B) Part 172.704(c)(1)(ii) is modified to require intrastate hazmat employees employed after July 2, 1994 to complete training within 90 days after employment.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Procedures
- 2) Code Citation: 92 Ill. Adm. Code 107
- 3) Section Numbers:  
107.3  
107.601  
Proposed Action:  
Amend  
Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

5) A Complete Description of the Subjects and Issues Involved: By this Notice of Proposed Amendments, the Department proposes to update the date of incorporation by reference of 49 CFR 107, Subpart G as of October 1, 1994, and to include the federal rulemaking adopted at 60 FR 27231, May 23, 1995.

The Department's regulations will incorporate changes made in the following Docket:

Docket HM-208B (60 FR 27231, May 23, 1995) maintains the annual registration fee of \$300. Applicability is expanded to include materials in a hazard class or division other than Division 2.3 or Division 6.1. Adopts an exception from the registration requirement for foreign offerors.

This rulemaking is also removing references to the Illinois Revised Statutes which will be replaced by the Illinois Compiled Statutes.

Section 107.3 is being amended to add a definition of "knowingly." The definition is being added to clarify the Illinois Hazardous Materials Transportation Act (the Act) which requires that a person must "knowingly" commit an act in violation of the Act or any rule or regulations promulgated thereunder to be liable for a civil penalty. This proposed definition of "knowingly" is based on the definition found in the federal Hazardous Materials Transportation Uniform Safety Act (HMTUSA).

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes. These conform to Section 5.75(a) of the Illinois Administrative Procedure Act.
- 9) Are there any other proposed rulemakings pending on this Part? No

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Cathy Allen  
Regulations Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212  
(217) 785-1135

By Messenger or Inter-Agency Mail:

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety, 3rd Floor  
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, IL 62764  
(217)782-5597

Comments received within forty-five days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking affects small businesses which transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements necessary for compliance.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- C) Types of professional skills necessary for compliance: No additional skills necessary for compliance.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

## TITLE 92: TRANSPORTATION

## CHAPTER I: DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER c: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

## PART 107

## PROCEDURES

## SUBPART A: GENERAL PROVISIONS

## Section

107.1 Purpose and Scope

107.3 Definitions

107.5 Request for Confidential Treatment

107.11 Service

107.13 Subpoenas

## SUBPART B: EXEMPTIONS

## Section

107.101 Purpose and Scope

107.102 Persons Holding Federal Exemptions

107.103 Applications for Exemptions for Persons Transporting Hazardous Materials Not Governed by the Federal Hazardous Materials Regulations

107.105 Application for Renewal

107.107 Initial Application Review

107.109 Processing of Application

107.111 Party to an Exemption

107.117 Withdrawal

107.119 Termination

107.121 Appeal

107.123 Availability for Public Inspection

## SUBPART D: ENFORCEMENT

## Section

107.301 Responsibility for Enforcement

107.303 Purpose and Scope

107.305 Investigations

107.307 Inspection and Examination of Records and Properties

107.308 Notice of Apparent Violation

107.309 Stopping of Vehicles

107.310 Department Review of Notice of Apparent Violation

107.311 Warning Letter

107.313 Civil Penalties Generally

107.314 Maximum Penalties

107.315 Commencement of Civil Penalty Proceeding

107.316 Reply

107.317 Payment of Penalty

107.318 Request for Hearing



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

107.319	Hearing
107.320	Presiding Officer's Decision
107.321	Assessment Considerations
107.323	Appeal
107.331	Compliance Orders Generally
107.333	Notice of Probable Violation
107.334	Reply
107.335	Consent Order
107.336	Hearing
107.337	Presiding Officer's Decision
107.338	Compliance Order For Immediate Compliance
107.339	Appeal
107.341	Injunctions and Other Equitable Relief
107.343	Imminent Hazards
107.371	Criminal Penalties Generally
107.373	Referral for Prosecution

## SUBPART E: REGISTRATION OF PERSONS WHO OFFER OR TRANSPORT HAZARDOUS

## MATERIALS

Section	
107.601	Incorporation by Reference of 49 CFR 107, Subpart G

## APPENDIX A Standard Conditions Applicable to Exemptions, Packages, Containers, Shipments

**AUTHORITY:** Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

**SOURCE:** Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 3 Ill. Reg. 49, p. 273, effective December 10, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; codified at 8 Ill. Reg. 17979; amended at 10 Ill. Reg. 5876, effective April 1, 1986; amended at 14 Ill. Reg. 2633, effective February 1, 1990; amended at 14 Ill. Reg. 8189, effective May 15, 1990; amended at 18 Ill. Reg. 7881, effective May 6, 1994; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## Section 107.3 Definitions

As used in this Part:

"Act" means the Illinois Hazardous Materials Transportation Act (430 ILCS 30/1 Rev-Stat-1991-ch-95-1/27-pars-780-1-through-16) [430 ILCS 30/1 through 16].

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

"Department" means the Illinois Department of Transportation.

"Director" means the Director of the Division of Traffic Safety.

"Division" means the Division of Traffic Safety.

"Enforcement" means issuance of warnings or notices of violation of any provision of the Act and the Illinois Hazardous Materials Transportation Regulation (IHMT) and prosecution of violations of the IHMT and the Act.

"IHMT" means the Illinois Hazardous Materials Transportation Regulations.

"Knowingly" means a person has actual knowledge of the facts giving rise to the violation, or a reasonable person acting in the circumstances and exercising due care would have such knowledge.

"Person" means any natural person or individual, governmental body, firm, association, partnership, copartnership, joint venture, company, corporation, joint stock company, trust, estate or any other legal entity or its legal representative, agent or assigns.

"Respondent" means a person upon whom the Department has served a notice of probable violation.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"State" means the State of Illinois.

"State Police" includes any individual officer of the State Police.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: REGISTRATION OF PERSONS WHO OFFER OR TRANSPORT HAZARDOUS MATERIALS

## Section 107.601 Incorporation by Reference of 49 CFR 107, Subpart G

a) 49 CFR 107, Subpart G is hereby incorporated by reference as that Subpart of the Hazardous Materials Transportation Regulations was in effect on October 1, 1994 1992, as amended at 60 FR 27231, May 23, 1995 50-FR-109857-February-23-1993-as-amended-at-50-FR-125437-March 57-1999. No later amendments to or editions of 49 CFR 107, Subpart G are incorporated.

b) The following interpretations of, additions to and deletions from 49

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

CFR 107, Subpart G shall apply for the purposes of this Subpart.

- 1) Any reference to "this Part" in the incorporated material shall mean 92 Ill. Adm. Code 107.
- 2) Any reference to "this Chapter" or "this Subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
- 3) Any reference to a section in the incorporated material shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Shippers General Requirements for Shipments and Packagings
- 2) Code Citation: 92 Ill. Adm. Code 173
- 3) Section Numbers: 173.3000  
Proposed Action: Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice of Proposed Amendments, the Department proposes to update the date of incorporation by reference of 49 CFR 173, as of October 1, 1994 and to include the federal rulemakings adopted at 59 FR 55162, November 3, 1994; 59 FR 67390, December 29, 1994; 60 FR 7627, February 8, 1995; 60 FR 17398, April 5, 1995; 60 FR 26796, May 18, 1995; 60 FR 40030, August 4, 1995; 60 FR 48780, September 20, 1995; 60 FR 49048, September 21, 1995; 60 FR 49106, September 21, 1995; and 60 FR 50292, September 28, 1995.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-183C (59 FR 55162, November 3, 1994) amends certain requirements for the manufacture, qualification and maintenance of cargo tank motor vehicles.

Docket HM-215A (59 FR 67390, December 29, 1994) amends the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. Necessary to facilitate the transport of hazardous materials in international commerce.

Docket HM-215A (60 FR 7627, February 8, 1995) corrects the final rule of December 29, 1994.

Docket HM-183C (60 FR 17398, April 5, 1995) amends the final rule of November 3, 1994 to revise design loading requirements for MC 331 cargo tank motor vehicles. Also makes other minor editorial and technical changes.

Docket HM-215A (60 FR 26796, May 18, 1995) corrects errors found in the final rule of December 29, 1994.

Docket HM-181E (60 FR 40030, August 4, 1995) clarifies and corrects a final rule of July 26, 1994 regarding requirements for the construction, maintenance and use of intermediate bulk containers for the transportation of hazardous materials.



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

Docket HM-181G (60 FR 48780, September 20, 1995) amends the requirements for infectious substances to clarify the scope of the regulations and to provide limited relief for regulated medical waste.

Docket HM-175A and HM-201 (60 FR 49048, September 21, 1995) amends the regulations to enhance the safe transportation of hazardous materials in tank cars. Intended to improve cashworthiness of tank cars and to increase the probability of detecting tank car defects.

Docket HM-189L (60 FR 49106, September 21, 1995) corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.

Docket HM-169A (60 FR 50292, September 28, 1995) amends the Hazardous Materials Regulations pertaining to the transportation of radioactive materials to harmonize them with those of the International Atomic Energy Agency. The intended effect is to increase the level of safety and facilitate international commerce concerning the transportation of radioactive materials.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes. These conform to Section 5.75(a) of the Illinois Administrative Procedure Act.

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Cathy Allen  
Regulations Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, IL 62794-9212  
(217)785-1135

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

By Messenger or Inter-Agency Mail:

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety, 3rd Floor  
Springfield, Illinois 62764

JCAR requests comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, IL 62764  
(217) 782-5597

Comments received within forty-five days of the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking affects small businesses which transport placarded hazardous materials.

B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements necessary for compliance.

C) Types of professional skills necessary for compliance: No additional skills necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because:

The full text of the Proposed Amendment begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION  
 CHAPTER 1: DEPARTMENT OF TRANSPORTATION  
 SUBCHAPTER c: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

## PART 173

## SHIPPERS GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Section  
 173.2000 General  
 173.3000 Incorporation by Reference of 49 CFR 173

**AUTHORITY:** Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

**SOURCE:** Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 4 Ill. Reg. 30, p. 1244, effective July 10, 1980; amended at 5 Ill. Reg. 1715, effective February 9, 1981; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 6 Ill. Reg. 10036, effective August 2, 1982; amended at 7 Ill. Reg. 3486, effective April 12, 1983; codified at 8 Ill. Reg. 20015; Part repealed, new Part adopted at 10 Ill. Reg. 5886, effective April 1, 1986; amended at 10 Ill. Reg. 20764, effective December 1, 1986; amended at 11 Ill. Reg. 4781, effective March 10, 1987; amended at 11 Ill. Reg. 17898, effective October 20, 1987; amended at 12 Ill. Reg. 8089, effective April 26, 1988; amended at 13 Ill. Reg. 3998, effective March 14, 1989; amended at 14 Ill. Reg. 2651, effective February 1, 1990; amended at 15 Ill. Reg. 7765, effective May 7, 1991; amended at 16 Ill. Reg. 11856, effective July 13, 1992; amended at 18 Ill. Reg. 7895, effective May 6, 1994; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 173.3000 Incorporation by Reference of 49 CFR 173**

a) As Part 173 of the Illinois Hazardous Materials Transportation Regulations the Department incorporates 49 CFR 173 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1994 1992; as amended at 59 FR 55162, November 3, 1994; as amended at 59 FR 67390, December 29, 1994; as amended at 60 FR 7627, February 8, 1995; as amended at 60 FR 17398, April 5, 1995; as amended at 60 FR 26796, May 18, 1995; as amended at 60 FR 40030, August 4, 1995; as amended at 60 FR 48780, September 20, 1995; as amended at 60 FR 49048, September 21, 1995; as amended at 60 FR 49106, September 21, 1995; and as amended at 60 FR 50292, September 28, 1995 57--PR--475197 October--187--1992--as-amended--at-57-PR-529307-November-57-1992-as-amended-at-58-PR-33447-January-87-1993-as-amended--at--58--PR--68647 February-27-1993--as-amended-at-58-PR-12904-March-87-1993--as-amended at--58--PR--33902-June-16-1993--as-amended-at-58-PR-50224-September 24-1993--as-amended-at-58-PR-50496-September-27-1993, subject only to the exceptions in subsection (b) of this Section. No later

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

amendments to or editions of 49 CFR 173 are incorporated.

b) The following interpretations of, additions to and deletions from 49 CFR 173 shall apply for purposes of this Part.

- 1) All references to "this part" in the incorporated federal regulations shall mean Part 173 of the Illinois Hazardous Materials Transportation Regulations.
- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to Parts 174, 175 or 176 or to sections therein shall be read to refer to those Parts or sections in the federal hazardous materials transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) Section 173.24(c)(3) is added to the Illinois Hazardous Materials Transportation Regulations and reads as follows:  
 The markings in this section are not required for a surface moisture/density gauge transported as Radioactive Material, Special Form, N.O.S., when accompanied by a shipping paper which contains (or is accompanied by) a signed statement or certification from the manufacturer of the gauge attesting that the gauge construction complies with all package specifications set forth in Sections 173.415 and 173.416, except those that pertain to marking.
- 7) Section 173.150(g) is added to the Illinois Hazardous Materials Transportation Regulations and reads as follows:  
 Gasoline being transported in a packaging having a rated capacity of 416 liters (110 gallons) or less, which is in compliance with the rules of the Office of the State Fire Marshal, 41 Ill. Adm. Code 170.15(c), is not subject to Subchapter c of these regulations except for sections 172.504(a) placarding, 173.24 and 173.28 which cover standard requirements for all packages and the reuse of packagings, section 177.837 regarding the loading and unloading of flammable liquids, and sections 397.7 and 397.13 covering parking and smoking, to the extent those sections apply.
- 8) Section 173.315(a) Note 17 is deleted from the federal regulations and a new Section 173.315(a) Note 17 is added to the Illinois regulations to read as follows:  
 Specifications MC 330 and MC 331 cargo tanks, with a design service pressure of 250 p.s.i.g., built in compliance with



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

the Federal ICC or Federal DOT regulations at the time of manufacture, which meet all other design and testing requirements specified by Part 180 for cargo tanks in anhydrous ammonia service, and which have been in anhydrous ammonia service in Illinois before February 1, 1979, may continue to be used in such service. No cargo tank that has not been in anhydrous ammonia service in Illinois before February 1, 1979, may be placed in such service in Illinois after that date unless it meets all requirements of the specifications, including a minimum design service pressure of 265 p.s.i.g.

9) Section 173.315(k) in 49 CFR is deleted and not incorporated.

10) Any changes to 49 CFR 173 made effective by U.S. DOT Rulemaking Docket HM-187 [49 FR 21933 (May 24, 1984)] covering small arms ammunition are not incorporated.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Specifications for Packagings
- 2) Code Citation: 92 Ill. Adm. Code 178
- 3) Section Numbers: Proposed Action:  
178.2000 Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (430 ILCS 30/4(a) and 9(a)).
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice of Proposed Amendments, the Department proposes to update the date of incorporation by reference of 49 CFR 178, as of October 1, 1994, and to include the federal rulemakings adopted as 59 FR 55162, November 3, 1994; 59 FR 67390, December 29, 1994; 60 FR 17398, April 5, 1995; 60 FR 26796, May 18, 1995; 60 FR 40030, August 4, 1995; 60 FR 48780, September 20, 1995; 60 FR 49106, September 21, 1995 and 60 FR 50292, September 28, 1995.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-183C (59 FR 55162, November 3, 1994) amends certain requirements for the manufacture, qualification and maintenance of cargo tank motor vehicles.

Docket HM-215A (59 FR 67390, December 29, 1994) amends the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. These revisions are necessary to facilitate the transport of hazardous materials in international commerce.

Docket HM-183C (60 FR 17398, April 5, 1995) amends the final rule of November 3, 1994 to revise design loading requirements for MC 331 cargo tank motor vehicles. These revisions also makes other minor editorial and technical changes.

Docket HM-215A (60 FR 26796, May 18, 1995) corrects errors found in the final rule of December 29, 1994.

Docket HM-181E (60 FR 40030, August 4, 1995) clarifies and corrects a final rule of July 26, 1994 regarding requirements for the construction, maintenance and use of intermediate bulk containers for the transportation of hazardous materials.

Docket HM-181G (60 FR 48780, September 20, 1995) amends the requirements for infectious substances to clarify the scope of the regulations and to provide limited relief for regulated medical waste.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

Docket HM-189L (60 FR 49106, September 21, 1995) corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.

Docket HM-169A (60 FR 50292, September 28, 1995) amends the Hazardous Materials Regulations pertaining to the transportation of radioactive materials to harmonize them with those of the International Atomic Energy Agency. The intended effect is to increase the level of safety and facilitate international commerce concerning the transportation of radioactive materials.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes. These conform to Section 5.75(a) of the Illinois Administrative Procedure Act.
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Cathy Allen  
Regulations Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, IL 62794-9212  
(217) 785-1135

By Messenger or Inter-Agency Mail:

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety; 3rd Floor  
Springfield, IL

JCAR requests comments and concerns regarding this rulemaking should be addressed to:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, Illinois 62764  
(217) 782-5597

Comments received within forty-five days of the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking affects small businesses which transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

## TITLE 92: TRANSPORTATION

## CHAPTER I: DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

## PART 178

## SPECIFICATIONS FOR PACKAGINGS

Section	
178.321	Specification MC 300; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, or Combination of Mild Steel with High Tensile Steel, or Stainless Steel, Primarily For the Transportation of Flammable Liquids or Poisonous Liquids, Class B
178.321-0.1	[178.321-1] General Requirements
178.321-0.2	[178.321-2] Material
178.321-0.3	[178.321-3] Thickness
178.321-0.4	[178.321-4] Joints
178.321-0.5	[178.321-5] Bulkheads, Baffles, and Ring Stiffeners
178.321-0.6	[178.321-6] Closures for Manholes
178.321-0.7	[178.321-7] Overturn Protection
178.321-0.8	[178.321-8] Outlets
178.321-0.9	[178.321-9] Vents, Valves, and Connections
178.321-1.0	[178.321-10] Protection of Fittings
178.321-1.1	[178.321-11] Emergency Discharge Control
178.321-1.2	[178.321-12] Shear Section
178.321-1.3	[178.321-13] Anchoring of Tank
178.321-1.4	[178.321-14] Gauging Devices
178.321-1.5	[178.321-15] Pumps
178.321-1.6	[178.321-16] Testing Requirements
178.321-1.7	[178.321-17] Marking of Cargo Tanks
178.321-1.8	[178.321-18] Certification
178.322	Specification MC 301; Cargo Tanks Constructed of Welded Aluminum Alloy (Grade 3S), To Be Mounted On and To Form Part Of Tank Motor Vehicles for Transportation of Flammable Liquids, and Poisonous Liquids, Class B
178.322-0.1	[178.322-1] General Requirements
178.322-0.3	[178.322-3] Certification
178.322-0.5	[178.322-5] Marking of Cargo Tanks
178.322-0.9	[178.322-9] Testing Requirements
178.322-1.1	[178.322-11] Material
178.322-1.2	[178.322-12] Thickness of Sheets and Ring Stiffeners
178.322-1.3	[178.322-13] Tolerance
178.322-1.4	[178.322-14] Joints
178.322-1.7	[178.322-17] Tank Outlets
178.322-1.8	[178.322-18] Bulkheads, Baffles, and Ring Stiffeners
178.322-1.9	[178.322-19] Tank Vents
178.322-2.0	[178.322-20] Valve and Faucet Connections
178.322-2.1	[178.322-21] Emergency Discharge Control
178.322-2.2	[178.322-22] Shear Section
178.322-2.3	[178.322-23] Protection of Valves and Faucets

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

## [178.322-24] Overturn Protection

Specification MC 302; Cargo Tanks Constructed of Welded Aluminum Alloy (ASTM B209-57T), Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B

## [178.323-1] General Requirements

## [178.323-2] Material

## [178.323-3] Thickness of Metal

## [178.323-4] Joints

## [178.323-5] Bulkheads, Baffles, and Ring Stiffeners

## [178.323-6] Closures for Manholes

## [178.323-7] Overturn Protection

## [178.323-8] Tank Outlets

## [178.323-9] Vents, Valves, and Connections

## [178.323-10] Protection of Fittings

## [178.323-11] Emergency Discharge Control

## [178.323-12] Shear Section

## [178.323-13] Anchoring of Tank

## [178.323-14] Gauging Devices

## [178.323-15] Pumps

## [178.323-16] Testing Requirements

## [178.323-17] Marking of Cargo Tanks

## [178.323-18] Certification

Specification MC 303; Cargo Tanks Constructed of Welded Ferrous Alloy (High-Tensile Steel), or Stainless Steel, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B

## [178.324-1] General Requirements

## [178.324-2] Material

## [178.324-3] Thickness of Metal

## [178.324-4] Joints

## [178.324-5] Bulkheads, Baffles, and Ring Stiffeners

## [178.324-6] Closures for Manholes

## [178.324-7] Overturn Protection

## [178.324-8] Outlets

## [178.324-9] Vents, Valves, and Connections

## [178.324-10] Protection of Fittings

## [178.324-11] Emergency Discharge Control

## [178.324-12] Shear Section

## [178.324-13] Anchoring of Tank

## [178.324-14] Gauging Devices

## [178.324-15] Pumps

## [178.324-16] Testing Requirements

## [178.324-17] Marking of Cargo Tanks

## [178.324-18] Certification

Specification MC 304; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, Welded Ferrous Alloy (High-Tensile) Steel, or Aluminum, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

B, Having Reid (ASTM D-323) Vapor Pressures of 18 PSIA or More at 100° F., But Less Than Those Stated in 92 Ill. Adm. Code 173.300, In Defining Compressed Gases

178.325.0.1  
178.325.0.2  
178.325.0.3  
178.325.0.4  
178.325.0.5  
178.325.0.6  
178.325.0.7  
178.325.0.8  
178.325.0.9  
178.325.1.0  
178.325.1.1  
178.325.1.2  
178.325.1.3  
178.325.1.4  
178.325.1.5  
178.325.1.6  
178.325.1.7  
178.325.1.8  
178.326

[178.325-1] General Requirements  
[178.325-2] Material  
[178.325-3] Thickness of Metal  
[178.325-4] Joints  
[178.325-5] Bulkheads, Baffles, and Ring Stiffeners  
[178.325-6] Closures for Manholes  
[178.325-7] Overturm Protection  
[178.325-8] Tank Outlets  
[178.325-9] Safety Relief Devices, Valves, and Connections  
[178.325-10] Protection of Fittings  
[178.325-11] Emergency Discharge Control  
[178.325-12] Shear Section  
[178.325-13] Anchoring of Cargo Tank  
[178.325-14] Gauging Devices  
[178.325-15] Pumps  
[178.325-16] Testing Requirements  
[178.325-17] Marking of Cargo Tanks  
[178.325-18] Certification  
Specification MC 305; Cargo Tanks Constructed of Aluminum Alloys for High-Strength Welded Construction, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B

178.326.0.1  
178.326.0.2  
178.326.0.3  
178.326.0.4  
178.326.0.5  
178.326.0.6  
178.326.0.7  
178.326.0.8  
178.326.0.9  
178.326.1.0  
178.326.1.1  
178.326.1.2  
178.326.1.3  
178.326.1.4  
178.326.1.5  
178.326.1.6  
178.326.1.7  
178.326.1.8  
178.330

[178.326-1] General Requirements  
[178.326-2] Material  
[178.326-3] Thickness of Sheets  
[178.326-4] Joints  
[178.326-5] Bulkheads, Baffles, and Ring Stiffeners  
[178.326-6] Closures for Manholes  
[178.326-7] Overturm Protection  
[178.326-8] Tank Outlets  
[178.326-9] Vents, Valves, and Connections  
[178.326-10] Protection of Fittings  
[178.326-11] Emergency Discharge Control  
[178.326-12] Shear Section  
[178.326-13] Anchoring of Cargo Tank  
[178.326-14] Gauging Devices  
[178.326-15] Pumps  
[178.326-16] Testing Requirements  
[178.326-17] Marking of Cargo Tanks  
[178.326-18] Certification  
Specification MC 310; Cargo Tanks Constructed of Ferrous Materials, Primarily For the Transportation of Corrosive Liquids  
[178.330-1] General Requirements  
[178.330-2] Material  
[178.330-3] Thickness of Metal

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

178.330.0.4  
178.330.0.5  
  
178.330.0.6  
178.330.0.7  
178.330.0.8  
178.330.0.9  
178.330.1.0  
178.330.1.1  
178.330.1.2  
178.330.1.3  
178.330.1.4  
178.330.1.5  
178.330.1.6  
178.330.1.7  
178.330.1.8  
178.331

[178.330-4] Joints  
[178.330-5] Bulkheads, Baffles, Ring Stiffeners, Tank Supports, and Compartmentation  
[178.330-6] Closures for Manholes  
[178.330-7] Overturm Protection  
[178.330-8] Outlets  
[178.330-9] Vents, Valves, and Connections  
[178.330-10] Protection of Fittings  
[178.330-11] Emergency Discharge Control  
[178.330-12] Shear Section  
[178.330-13] Anchoring of Tank  
[178.330-14] Gauging Devices  
[178.330-15] Pumps and Compressors  
[178.330-16] Testing Requirements  
[178.330-17] Marking of Cargo Tanks  
[178.330-18] Certification  
Specification MC 311; Cargo Tanks Constructed of Ferrous Metals or Aluminum, Primarily For the Transportation of Corrosive Liquids

178.331.0.1  
178.331.0.2  
178.331.0.3  
178.331.0.4  
178.331.0.5  
  
178.331.0.6  
178.331.0.7  
178.331.0.8  
178.331.0.9  
178.331.1.0  
178.331.1.1  
178.331.1.2  
178.331.1.3  
178.331.1.4  
178.331.1.5  
178.331.1.6  
178.331.1.7  
178.331.1.8  
178.336

[178.331-1] General Requirements  
[178.331-2] Material  
[178.331-3] Thickness of Metal  
[178.331-4] Joints  
[178.331-5] Bulkheads, Baffles, Ring Stiffeners, Tank Supports, and Compartmentation  
[178.331-6] Closures for Manholes  
[178.331-7] Overturm Protection  
[178.331-8] Outlets  
[178.331-9] Vents, Valves, and Connections  
[178.331-10] Protection of Fittings  
[178.331-11] Emergency Discharge Control  
[178.331-12] Shear Section  
[178.331-13] Anchoring of Tank  
[178.331-14] Gauging Devices  
[178.331-15] Pumps and Compressors  
[178.331-16] Testing Requirements  
[178.331-17] Marking of Cargo Tanks  
[178.331-18] Certification  
Specification MC 330; Cargo Tanks Constructed of Steel, Primarily For Transportation of Compressed Gases  
[178.336-1] General Requirements  
[178.336-2] Material  
[178.336-3] Thickness of Metal  
[178.336-4] Joints  
[178.336-5] Bulkheads, Baffles, and Ring Stiffeners  
[178.336-6] Closures for Manholes  
[178.336-7] Overturm Protection  
[178.336-8] Outlets



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

[178.336-9] Safety Relief Devices, Valves, and Connections  
 [178.336-10] Protection of Fittings  
 [178.336-11] Emergency Discharge Control  
 [178.336-12] Shear Section  
 [178.336-13] Anchoring of Cargo Tank  
 [178.336-14] Gauging Devices  
 [178.336-15] Pumps and Compressors  
 [178.336-16] Testing Requirements  
 [178.336-17] Marking of Cargo Tanks  
 [178.336-18] Certification  
 [178.337] Specification MC 331; Cargo Tanks Constructed of Steel, Primarily For Transportation of Compressed Gases, As Defined in the Compressed Gas Section (Repealed)  
 [178.337-1] General Requirements (Repealed)  
 [178.337-2] Material (Repealed)  
 [178.337-3] Thickness of Tank Metal (Repealed)  
 [178.337-4] Joints (Repealed)  
 [178.337-5] Bulkheads, Baffles, and Ring Stiffeners (Repealed)  
 [178.337-6] Closure for Manhole (Repealed)  
 [178.337-7] Overturn Protection (Repealed)  
 [178.337-8] Outlets (Repealed)  
 [178.337-9] Safety Relief Devices, Valves, and Connections (Repealed)  
 [178.337-10] Protection of Fittings (Repealed)  
 [178.337-11] Emergency Discharge Control (Repealed)  
 [178.337-12] Shear Section (Repealed)  
 [178.337-13] Supporting and Anchoring (Repealed)  
 [178.337-14] Gauging Devices (Repealed)  
 [178.337-15] Pumps and Compressors (Repealed)  
 [178.337-16] Testing (Repealed)  
 [178.337-17] Marking (Repealed)  
 [178.337-18] Certification (Repealed)  
 [178.340] General Design and Construction Requirements Applicable to Specifications MC 306 (Section 178.341), MC 307 (Section 178.342), and MC 312 (Section 178.343) Cargo Tanks (Repealed)  
 [178.340-1] Specification Requirements For MC 306, MC 307, and MC 312 Cargo Tanks (Repealed)  
 [178.340-2] General Requirements (Repealed)  
 [178.340-3] Material (Repealed)  
 [178.340-4] Structural Integrity (Repealed)  
 [178.340-5] Joints (Repealed)  
 [178.340-6] Supports and Anchoring (Repealed)  
 [178.340-7] Circumferential Reinforcements (Repealed)  
 [178.340-8] Accident Damage Protection (Repealed)  
 [178.340-9] Pumps (Repealed)  
 [178.340-10] Certification (Repealed)  
 [178.340-11] Specification MC 306; Cargo Tanks (Repealed)  
 [178.341-1] General Requirements (Repealed)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

[178.341-2] Thickness of Shells, Heads, Bulkheads, and Baffles (Repealed)  
 [178.341-3] Closures for Fill Openings and Manholes (Repealed)  
 [178.341-4] Vents (Repealed)  
 [178.341-5] Emergency Flow Control (Repealed)  
 [178.341-6] Gauging Devices (Repealed)  
 [178.341-7] Method of Test (Repealed)  
 [178.342] Specification MC 307; Cargo Tanks (Repealed)  
 [178.342-1] General Requirements (Repealed)  
 [178.342-2] Thickness of Shell, Heads, Bulkheads, and Baffles (Repealed)  
 [178.342-3] Closures for Manholes (Repealed)  
 [178.342-4] Vents (Repealed)  
 [178.342-5] Outlets (Repealed)  
 [178.342-6] Gauging Devices (Repealed)  
 [178.342-7] Method of Test (Repealed)  
 [178.343] Specification MC 312; Cargo Tanks (Repealed)  
 [178.343-1] General Requirements (Repealed)  
 [178.343-2] Thickness of Shell, Heads, Bulkheads, and Baffles of Non-Asme Code Tanks (Repealed)  
 [178.343-3] Closures for Manholes (Repealed)  
 [178.343-4] Vents (Repealed)  
 [178.343-5] Outlets (Repealed)  
 [178.343-6] Gauging Devices (Repealed)  
 [178.343-7] Method of Test (Repealed)  
 [178.350-1] General Requirements (Repealed)  
 [178.350-2] Specific Requirements (Repealed)  
 [178.350-3] Marking (Repealed)  
 [178.1000] General  
 [178.2000] Incorporation by Reference of 49 CFR 178

APPENDIX C Tensile Specimen  
 APPENDIX D Material Thickness (Repealed)  
 TABLE A Minimum Thickness of Heads, Bulkheads, and Baffles (Repealed)  
 TABLE B Minimum Thickness of Shell Sheets (Repealed)

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 5 Ill. Reg. 1715, effective February 9, 1981; amended at 6 Ill. Reg. 10036, effective August 2, 1982; amended at 8 Ill. Reg. 19640, effective October 1, 1984; codified at 8 Ill. Reg. 20047; amended at 8 Ill. Reg. 20064, effective October 1, 1984; amended at 10 Ill. Reg. 5897, effective April 1, 1986; amended at 10 Ill. Reg. 20770, effective December 1, 1986; amended at 11 Ill. Reg. 4786, effective March 10, 1987; amended at 11 Ill. Reg. 17904, effective October 20, 1987; amended at 12 Ill. Reg. 8093, effective April 26, 1988;

DEPARTMENT OF TRANSPORTATION  
NOTICE OF PROPOSED AMENDMENT

- Chapter I, Subchapter c.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
  - 4) All references to Parts 174, 175 or 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF TRANSPORTATION  
NOTICE OF PROPOSED AMENDMENT

amended at 13 Ill. Reg. 4004, effective March 14, 1989; amended at 14 Ill. Reg. 2640, effective February 1, 1990; amended at 15 Ill. Reg. 7771, effective May 7, 1991; amended at 16 Ill. Reg. 11863, effective July 13, 1992; amended at 18 Ill. Reg. 7901, effective May 6, 1994; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

AGENCY NOTE: In reading this Part it is necessary to read Sections 178.1000 and 178.2000 prior to reading the remaining Sections in numerical order.

**Section 178.2000 Incorporation by Reference of 49 CFR 178**

- a) As Part 178 of the Illinois Hazardous Materials Transportation Regulations the Department incorporates 49 CFR 178 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 1994 1993; as amended at 59 FR 55162, November 3, 1994; as amended at 59 FR 67390, December 29, 1994; as amended at 60 FR 17398, April 5, 1995; as amended at 60 FR 26796, May 18, 1995; as amended at 60 FR 40030, August 4, 1995; as amended at 60 FR 48780, September 20, 1995; as amended at 60 FR 49106, September 21, 1995; as amended at 60 FR 50292, September 28, 1995, 58 FR--139047 March-07-19937-as-amended-at-58-FR-33027-June-167-19937-as-amended-at-58-FR-50224-September-247-19937-as-amended-at-58-FR-504967-September 277-19937 subject only to the exceptions in subsection (f) of this Section. No later amendments to or editions of 49 CFR 178 are incorporated.
- b) As Section 178.340 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.340 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- c) As Section 178.341 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.341 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- d) As Section 178.342 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.342 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- e) As Section 178.343 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.343 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- f) The following interpretations of, additions to and deletions from the 49 CFR 178 shall apply for purposes of this Part.
  - 1) All references to "this part" in the incorporated federal regulations shall mean Part 178 of the Illinois Hazardous Materials Transportation Regulations.
  - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code:



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Specifications for Tank Cars

2) Code Citation: 92 Ill. Adm. Code 179

3) Section Numbers: Proposed Action:  
179.2000 Amend

4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

5) A Complete Description of the Subjects and Issues Involved: By this Notice of Proposed Amendments, the Department proposes to update the date of incorporation by reference of 49 CFR 179, as of October 1, 1994, and to include the federal rulemaking adopted at 60 FR 49048, September 21, 1995.

The Department's regulations will incorporate changes made in the following Dockets:

Docket HM-175A and HM-201 (60 FR 49048, September 21, 1995) amends the regulations to enhance the safe transportation of hazardous materials in tank cars. These revisions are intended to improve crashworthiness of tank cars and to increase the probability of detecting tank care defects.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes  
These conform to Section 5.75(a) of the Illinois Administrative Procedure Act.

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Ms. Cathy Allen  
Regulations Unit  
Illinois Department of Transportation  
Division of Traffic Safety

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENT

P.O. Box 19212  
Springfield, Illinois 62794-9212  
(217) 785-1135

By Messinger or Inter-Agency Mail:

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety, 3rd Floor  
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, IL 62764  
(217) 782-5597

Comments received within forty-five days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking affects small businesses which transport placarded hazardous materials.

B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements necessary for compliance.

C) Types of professional skills necessary for compliance: No additional skills necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF TRANSPORTATION  
NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 179  
SPECIFICATIONS FOR TANK CARS

Section  
179.1000 General  
179.2000 Incorporation By Reference of 49 CFR 179

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 19677, effective October 1, 1984; amended at 10 Ill. Reg. 5909, effective April 1, 1986; amended at 10 Ill. Reg. 20824, effective December 1, 1986; amended at 11 Ill. Reg. 4796, effective March 10, 1987; amended at 11 Ill. Reg. 17915, effective October 20, 1987; amended at 12 Ill. Reg. 8102, effective April 26, 1988; amended at 15 Ill. Reg. 7781, effective May 7, 1991; amended at 16 Ill. Reg. 11875, effective July 13, 1992; amended at 18 Ill. Reg. 7912, effective May 6, 1994; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 179.2000 Incorporation By Reference of 49 CFR 179

a) As Part 179 of the Illinois Hazardous Materials Transportation Regulations the Department incorporates the following sections of 49 CFR 179 by reference, as those sections of the federal hazardous materials transportation regulations were in effect on October 1, 1994; as amended at 60 FR 49048, September 21, 1995 October-17-1992; as-amended-at-58-FR-50224-September-24-1993, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of those sections of 49 CFR 179 of the federal regulations are incorporated.

- 179.1 General
- 179.2 Definitions and abbreviations
- 179.5 Certificate of Construction
- 179.6 Repairs and alterations
- 179.7 Quality Assurance program
- 179.10 Tank mounting
- 179.11 Welding certification
- 179.12 Interior heater systems
- 179.16 Tank-head puncture-resistance
- 179.18 Thermal protection systems
- 179.20 Service equipment; protection systems

DEPARTMENT OF TRANSPORTATION  
NOTICE OF PROPOSED AMENDMENT

179.22 Marking  
179.300 General specifications applicable to multi-unit tank car tanks designed to be removed from car structure for filling and emptying (classes DOT-106A and 110AW)-  
179.301 Individual specification requirements for multi-unit tank car tanks-

b) The following interpretations of, additions to and deletions from the above incorporated sections of 49 CFR 179 shall apply for purposes of this Part:

- 1) All references to "this part" in the incorporated federal regulations shall mean Part 179 of the Illinois Hazardous Materials Transportation Regulations.
- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations except references to Section 179.3 shall mean 49 CFR 179.3.
- 4) 49 CFR 179.2 (a)(4) is deleted and replaced by the following: "DOT" means the U.S. Department of Transportation and "Department" means the Illinois Department of Transportation."

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Egg and Egg Products Act
- 2) Code Citation: 8 Ill. Adm. Code 65
- 3) Section Numbers:
- |                        |
|------------------------|
| <u>Adopted Action:</u> |
| 65.30 Amended          |
| 65.50 Amended          |
| 65.80 Amended          |
| 65.90 Amended          |
| 65.100 Amended         |
| 65.110 Amended         |
| 65.120 Repealed        |
| 65.130 Amended         |
| 65.140 Amended         |
| 65.150 Amended         |
| 65.160 Amended         |
| 65.170 Amended         |
| 65.180 Amended         |
| 65.190 Amended         |
| 65.200 Amended         |
| 65.210 Amended         |
| 65.220 Amended         |
| 65.230 Repealed        |
- 4) Statutory Authority: Section 13 of the Illinois Egg and Egg Products Act  
[410 ILCS 615/13]
- 5) Effective Date of amendments: January 1, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this proposed amendment contain incorporations by reference? Yes
- 8) Date Filed in Agency's Principal Office: January 1, 1996
- 9) Notices of Proposal Published in Illinois Register: October 6, 1995, 19 Ill. Reg. 13610
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version: In addition to nonsubstantive editorial changes, proposed language in Section 65.30(c) concerning labeling requirements of expiration dates has been taken out and subsection (d) is reinstated.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

- 13) Will this amendment replace an emergency amendment in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of amendments: Most of the amendments are due to changes in the Egg and Egg Products Act (P.A. 89-154, effective July 19, 1995). License fees are being established by rule and are being increased to help defray the costs of this program. Section 65.180(d) and Section 65.230 are being deleted because this information is addressed in the statute. References to federal regulations and the Illinois Compiled Statutes are being updated. Section 65.210 is being amended to clarify the handler responsible for paying egg inspection fees.
- 16) Information and questions regarding this adopted amendment shall be directed to:
- Debbie Wakefield  
Illinois Department of Agriculture  
State Fairgrounds  
Springfield, IL 62794-9281  
(217) 785-5713 or FAX: (217) 785-4505
- The full text of Adopted Amendments begins on the next page:

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 65  
EGG AND EGG PRODUCTS ACT

Section	
65.10	Definitions
65.20	Packaging Material, Master Containers, Packing Material and Consumer-Size Containers
65.30	Consumer Container <del>Retain</del> Labeling Requirements
65.40	Restrictions
65.50	Master Container Labeling Requirements <del>Labeling-of-Containers</del>
65.60	Advertising
65.70	Brand or Firm Name
65.80	Food Preparation
65.90	Holding Temperature
65.100	Application for License or Renewal; Revocation or Suspension of License
65.110	Licenses
65.120	Surety Bond or Certificate of Deposit <del>(Repealed)</del>
65.130	Required Forms and Records
65.140	Minimum Sanitation, Building and Labeling Requirements for Egg Breaking Establishments
65.150	Minimum Sanitation and Operating Requirements for Shell Egg Grading Plants, Not Under Federal Inspection, Engaged in the Grading, Storage, Packaging and Distribution of Eggs
65.160	Minimum Sanitation Requirements for Retailers and Institutional Consumers
65.170	Retail Egg Inspection
65.180	Enforcement
65.190	Restricted Eggs (Definition, Labeling, Handling, Disposition)
65.200	Denaturants
65.210	Egg Inspection Fee
65.220	Illinois Grade Standards
65.230	Administrative Hearings <del>(Repealed)</del>

AUTHORITY: Implementing and authorized by Section 13 of the Illinois Egg and Egg Products Act [410 ILCS 615/13].

SOURCE: Rules and Regulations for the Illinois Egg and Egg Products Act, filed October 28, 1975, effective November 1, 1975; amended March 2, 1976, effective March 12, 1976; amended December 29, 1976, effective January 1, 1977; codified at 5 Ill. Reg. 10449; amended at 7 Ill. Reg. 2311, effective February 14, 1983; amended at 17 Ill. Reg. 6749, effective April 27, 1993; amended at 19 Ill. Reg. 140033, effective Jan 1 1996.

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

Section 65.30 Consumer Container ~~Retain~~ Labeling Requirements

- All shell eggs sold by a producer-dealer, packer, handler, or distributor to a retailer for resale to a consumer shall be labeled on the consumer-size container with the grade and size. Labeling shall be in bold type with letters not less than 3/8 inch in height, no abbreviations permitted.
- Labeling on each consumer-size container must show the name and address of the packer or the name and address of the distributor or retailer under whose authority the eggs were packed. This identification must be permanent either by stamping or printing in bold type with letters not less than 1/8 inch in height.
- Each ~~in-addition-to-the-labeling-requirements-in-(a)-and-(b)-above~~ each consumer-size container must include in its label with letters not less than 1/8 inch in height a number indicating the exact consecutive day of the year on which the determination of grade and size was made. Predating is not permitted. Illegible dates shall be considered as no dates. Canning dates must be separated from any other codes which may appear on the carton.
- In addition to the above labeling requirements, it shall be allowable to include expiration dates in the labeling of consumer-size containers at retail, provided that the expiration date be within a thirty day period from the date of candling. The expression of this date must be as follows: EXP. DAY, MONTH, or EXP. MONTH, DAY. Eggs with an expiration date marked on the container shall not be offered for sale or sold to a consumer after the date marked on the container.

(Source: ~~Amended 1996~~ 19 Ill. Reg. 140033, effective Jan 1 1996)

Section 65.50 Master Container Labeling Requirements-~~Labeling-of-Containers~~

- All master containers, whether full or partial containing bulk (loose) eggs offered, exposed or packed for sale, or transported for sale within the State shall bear a label stamped on the container or a removable tag affixed to the container on the top rung showing the following information in a conspicuous manner:
  - Grade and size -- in letters not less than 1/2 inch in height.
  - Name and address of packer or Illinois egg license number or U.S.D.A. plant number or egg license number from another state -- in letters not less than 1/4 inch in height.
  - The exact date on which the eggs were candled and graded. This candling date must be legible and accurate and appear in letters not less than 1/4 inch in height. Predating is not permitted. Illegible dates shall be considered as no dates.
- Wire or plastic baskets (master containers) containing consumer-size cartons with the labeling information required by 8 Ill. Adm. Code 65.30 exposed to view are exempt from labeling the master container



## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

itself.

- c) Master containers, containing consumer-size containers where the labeling information is not exposed to view, must be labeled with one of the following means of identification:

- 1) name and address of packer,
- 2) state license number,
- 3) U.S.D.A. plant number, or
- 4) egg license number from another state.

- d) A packer shall notify the Department in writing if he elects to use the state egg license number or U.S. Department of Agriculture plant number instead of his name and address.

(Source: Amended at 19 Ill. Reg. 115933, effective JAN 1 1996)

## Section 65.80 Food Preparation

Restaurants, institutional consumers, and food manufacturers shall receive and use only clean sound shell eggs of Grade B quality or better. They may buy dried, frozen or liquid eggs only if such products are prepared and pasteurized in a plant under USDA continuous inspection and carry the USDA inspected egg products legend.

(Source: Amended at 19 Ill. Reg. 115933, effective JAN 1 1996)

## Section 65.90 Holding Temperature

- a) From the point of candling and grading, all eggs designated for human consumption shall be held at a temperature not to exceed 45° 60° F. ambient temperature after processing until they reach the consumer.

The 45° 60° F. requirement will begin after the candling and grading and will apply to any place or room in which the eggs are stored, except during the transportation eggs shall be held in vehicles capable of delivering air at 45° F. ambient temperature. Every effort shall be made to hold the eggs at 45° F. ambient temperature. Where the temperature inside the body of the vehicle may exceed 60° F. provided the temperature taken inside each master container remains at 60° F. or below.

- b) All shell eggs shall be kept from freezing.

- c) Nest run eggs shall be held at 60° F. or less at all times, including during transportation.

(Source: Amended at 19 Ill. Reg. 115933, effective JAN 1 1996)

## Section 65.100 Application for License or Renewal; Revocation or Suspension of License

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

- a) Except for those businesses exempted in Section 8 of the Act, applications for a license to operate as a handler, egg breaking establishment or any other business which buys, sells, trades or traffics in eggs, such as, egg packing, handling and processing plants, shall be made on forms supplied by the Department. Persons who ship shell eggs into Illinois from any other state via their own trucks, leased trucks, or common carrier must have Illinois Egg Licenses. All shipments of such eggs shall meet Federal standards (21 U.S.C.A. 1031 et seq. 1679972) and 7 CFR 56 (January 1, 1995) 7-5/191 and 7 CFR 59 (January 1, 1995) 7-5/190 and be in compliance with this Part. Egg breaking establishments located in this State or located outside the State but who sell or purchase shell eggs in Illinois must obtain an Illinois Shell Egg License and thereby become subject to all provisions of the Act and to the rules governing the sale and purchase of shell eggs in this Part.

- b) New applicants for licenses shall state the type of license desired (Section 65.110) when requesting an application form. Applications for renewal of licenses shall be mailed by the Department to the licensee at the address on the application. The application for renewal of a license shall be filed with the department annually within 60 days after the close of the egg handler's last completed fiscal year or within such further time, not exceeding 60 days, as the department upon application may grant (Ill. Rev. Stat. 1991-CH-56 1/27-PAR-55-9) (410-1568-615/91). The Department shall extend past the 60-day renewal period a grace period, not exceeding another 60 days, provided the applicant has submitted the executed renewal application to the Department within the renewal period accompanied by a statement indicating that a current financial statement and/or surety bond has been contracted for and estimated date it will be available for the Department's review. Except that the Department shall not grant a grace period or shall cancel a grace period that was granted if the handler has defaulted to producers for eggs which he has purchased from them. The application for an egg license shall include the name to appear on the license, and the address where the applicant engages in the business of buying eggs, information as to the type of license being applied for, name under which the license was previously issued and license number if it is a request for renewal of license information on whether the licensee purchased nest run eggs and from whom and information on officers or partners, if applicable.

- c) The application for license to operate an egg breaking establishment shall request the name to appear on the license and licensee the address of the business and information on whether the business has or will purchase nest run eggs from producers. Applicant's business must meet standards as set forth in Section 65.140 and submit a financial statement and surety bond or certificate of deposit if the egg breaking establishment qualifies as a handler (see subsection (d) below).

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

- d) A handler as defined in Section 3.16 of the Act who buys nest-run eggs from a producer, except a retailer or producer-dealer who purchases less than 150 cases (master containers containing 30 dozen eggs in each container) per year from producers and provided they pay cashy barter or kind for such eggs, shall file with the application a surety bond or post a certificate of deposit in accordance with the provisions of Section 11.1 of the Act as well as a current financial statement as required by Section 11.2 of the Act. Handlers who purchase nest-run eggs from a bonded producer-dealer do not need to be bonded or submit a financial statement unless the nest-run eggs are from the bonded producer-dealer's own production. The surety bond or certificate of deposit will cover that portion of the nest-run eggs that is from the bonded producer-dealer's own production. Section 65.120 states additional requirements regarding surety bonds or certificates of deposit.
- e) Inaccurate or missing information on the application will be grounds for revoking or refusing to issue a license. Before refusing to issue or renew or before suspending or revoking a license or refusing to issue or revoking a grace period for renewal, the Department shall comply with the provisions of Section 11.5 of the Act. The administrative hearing shall be conducted in accordance with Section 18.5 of the Act 65-236.

(Source: Amended at 19 Ill. Reg. 16933, effective JAN 1 1996)

## Section 65.110 Licenses

- a) The classifications of egg licenses and license fees for an Illinois Egg License (full and limited) and (limited) is set in Section 9 of the Act. Classifications of egg licenses are:

1) Illinois Egg License (Full) is required for the following business:

- A) Producer-dealer (as defined in Section 3.29 Paragraph 55-3-29 of the Act and who sells eggs from other than his own production of 3,000 or more birds) - \$50.  
 B) Grading station (candles and grades nest run eggs from various producers) - \$50.  
 C) Jobber or broker (as defined in Section 3.2 Paragraph 55-3-2 of the Act) - \$50.  
 D) Distributor (as defined in Section 3.11 Paragraph 55-3-11 of the Act) - \$50.  
 E) Retailer (as defined in Section 3.31 Paragraph 55-3-31 of the Act and who purchases 150 cases (master containers containing 30 dozen eggs in each container) or more of nest run eggs per year) - \$50.
- 2) Illinois Egg License (Limited) is required for the following businesses:

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

- A) Retailer (as defined in Section 3.31 Paragraph 55-3-31 of the Act and who purchases less than 150 cases (master containers containing 30 dozen eggs in each container) of nest run eggs per year) - \$15.  
 B) Producer-dealer (as defined in Section 3.29 Paragraph 55-3-29 of the Act and who sells only graded eggs produced by his own flock of 3,000 birds or less) - \$15.  
 3) Egg Breaker's License (egg breaking establishment as defined in Section 16 Paragraph 55-16 of the Act). The license fee as set in Section 16 of the Act is \$200.
- b) A license will be issued if the applicant complies with the requirements of Sections 9 and 16 Paragraphs 97-117-112 and 16 of the Act (as applicable to the type of license desired) and this part these rules.
- c) Illinois Egg Licenses must be posted conspicuously at the place of business of the holder thereof so the license may be seen by the public and by the inspectors of the Department of Agriculture at any and all hours of the working day.
- d) Truckers purchasing eggs from an Illinois producer are required to have an Illinois Egg license or photostatic copy of the license displayed in the cab.
- e) A separate license must be obtained for each business location.
- f) A place of business means a location where any person buys eggs from producers, or buys from or sells to institutional consumers, retailers, manufacturers or handlers. A truck or vehicle shall be considered a place of business provided no building is used for this purpose. Any person who operates his business from a vehicle in the State must provide to the Department a legal address for contact.
- g) Licenses are non-transferable. In the event of a sale of a licensed business, the purchaser will be required to make application for a new license.

(Source: Amended at 19 Ill. Reg. 16933, effective JAN 1 1996)

## Section 65.120 Surety Bond or Certificate of Deposit (Repealed)

- a) An applicant for an Illinois Egg License (Full or an Egg Breaker's License) or for the renewal of such license, who purchases nest-run eggs shall file with the Department, accompanied by the application for license, a current financial statement and a commercial surety bond or Certificate of Deposit as required in Section 11.1 of the Act equal to 1/12 of the total dollar amount of his yearly purchases of nest-run eggs from Illinois producers, with the following exception: Retailers or producer-dealers who purchase less than 150 cases of nest run eggs from producers per year are exempt from this requirement provided they pay cashy barter or kind for such eggs. Applicants not engaged in such business theretofore or for less than one year shall



## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

- estimate their surety bond or certificate of deposit in accordance with Section 111 of the Act. A surety bond or certificate of deposit does not have to be secured by a handler for nest-run eggs purchased from a bonded producer dealer, unless such nest-run eggs are from the bonded producer dealer's own flock.
- b) The name and address of the licensee on the surety bond shall correspond with the name and address on the application for license.
- c) Every bond must be signed by the licensee holder in the same manner as on the application for the licensee, acknowledged before a notary public, and if the applicant is a corporation, the corporate seal shall be affixed thereto.
- d) Every bond so filed shall contain a provision that it may not be cancelled by the principal or surety company except on 60 days prior notice in writing via certified mail to the Director at Springfield, Illinois, or to the office of a copy of such notice shall be mailed on the same day to the principal. The cancellation shall not affect the liability accrued or which may accrue under such bond before the expiration of the 60 days.
- e) If at the end of the 60 days prior notice of cancellation the licensee has not replaced the bond, he shall immediately notify all of the producers from whom he is currently buying eggs that his bond has been cancelled and that he is no longer bonded.
- f) The effective date of the bond shall be the date that it is issued. During the first year of operation, if a bonded licensee has purchased an amount of eggs in excess of his initial estimate, he shall readjust the estimate and immediately furnish the Department with sufficient additional bond or post-additional certificate of deposit to cover the additional purchases.
- g) The Department has promulgated rules governing the collection, handling and distribution of surety bonds and certificates of deposit posted with the Director as trustee in order to satisfy claimants. These rules (0-III-Adm-Code-3) in conjunction with 0-III-Adm-Code 65-230 shall govern the Department's actions in the case where a licensee who is required to be bonded has defaulted payment to producers for eggs which he has purchased from them.

(Source: Repealed at 19 Ill. Reg. 16933 effective JAN 1 1936)

## Section 65.130 Required Forms and Records

- a) Grade Buying Slip.
- 1) When eggs are purchased from the producer on a graded basis, a grade buying slip shall be issued by the purchaser to the producer showing that eggs are of one or more of the following grade and size designations stating the quantity of each. Every grade buying slip shall carry a minimum of these six designations:

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

- A Large B Grade  
A Medium Restricted  
A Small Loss

- 2) The grade buying slip must identify the producer and the purchaser and show the date of purchase and the date of grading. Eggs purchased from producers on a graded basis shall be candled and graded by the first receiver before the close of the fifth business day after receipt of the eggs at the grading facility unless otherwise agreed to by both parties and, unless they are sold as "Nest Run Eggs" in which event they must be assigned a nest run grade and a weight class as defined in 7 CFR 56.230, 56.231, and 56.232 (January 1, 1995 May-17-1994) in the Federal standards for shell eggs.
- 3) If quality factors preclude the assignment of a nest run grade, it must be so stated on the invoice accompanying the sale of the eggs to the second receiver.
- 4) Other grade and size classifications may be used in addition to the above compulsory ones. When other grades are added to the above list, they must conform with the Federal egg grading standards adopted in Section 65.220. The term "restricted" shall be used to designate all edible eggs below B quality (see Section 65.190(a)). A quantitative breakdown of the various types (i.e., checks, dirties, etc.) of restricted eggs shall be shown.
- b) Invoice.
- 1) When eggs are sold by a licensed handler to another handler or retailer for ultimate resale to consumers, or to an institutional consumer or manufacturer for use in preparation of food for human consumption, an invoice or other accounting document must accompany the eggs.
- 2) The invoice or other accounting document must show the name and address of the seller, the name and address of the purchaser, and the exact grade and size of the eggs sold according to State grade standards (see Section 65.220).
- 3) Both seller and buyer must keep a copy of this invoice or other accounting document on file at their respective places of business for a period of 30 days.

(Source: Amended at 19 Ill. Reg. 16933 effective JAN 1 1936)

## Section 65.140 Minimum Sanitation, Building and Labeling Requirements for Egg Breaking Establishments

Illinois standards for sanitation, building and labeling requirements for egg breaking establishments shall be those as required by the Federal Egg Products Inspection Act (21 U.S.C.A. 10357-672972 and 10367-672972) and its rules (7 CFR 59 (January 1, 1995) May-17-1994).

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 19 Ill. Reg. 11.033, effective JAN 1 1935)

**Section 65.150 Minimum Sanitation and Operating Requirements for Shell Egg Grading Plants, Not Under Federal Inspection, Engaged in the Grading, Storage, Packaging and Distribution of Eggs**

- a) Buildings shall be of sound construction so as to prevent the entrance or harboring of vermin.
- b) All areas and rooms in which eggs are handled, graded, and packed shall be kept reasonably clean during working hours and shall be thoroughly cleaned at the end of each operating day.
- c) Cooler rooms shall be free from objectionable odors, such as, mustiness or a rotten odor, and shall be maintained in a clean sanitary condition.
- d) Oil processing of shell eggs to preserve quality shall be conducted in a manner as will avoid contamination of the eggs. The temperature of the processing oil must be warmer than the temperature of the eggs to which it is applied.
  - 1) Oil having any off odor or oil that is obviously contaminated shall not be used. Processing oil that has been previously used and which has become contaminated shall be filtered and heated to 180° F. for three minutes prior to reuse.
  - 2) Oil treating equipment shall be washed, rinsed and treated with a bactericidal agent each time the oil is removed. It is preferable to filter and heat treat processing oil, and clean processing equipment daily when in use. Equipment shall be covered when not in use to keep it clean.
  - 3) Eggs with apparent moisture on the shell shall not be oil treated.
- e) Egg cleaning equipment shall be kept in good repair and shall be thoroughly cleaned after each day's use or more often if necessary to maintain a sanitary condition. The wash water shall be potable and maintained at a temperature of 90° F. minimum. The wash water temperature must be at least 20° greater than the egg temperature. The wash water shall be replaced frequently and the detergent and sanitizer shall be kept at an effective level at all times.
  - 1) During any rest period, or at any time when the equipment is not in operation, the eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a build-up of heat.
  - 2) Only USDA or Federal approved cleaning and sanitizing compounds may be used (7 CFR 59.515 (January 1, 1995)7--May--17--1998). Washed eggs shall be reasonably dry before cartoning or casing.
- f) Washing eggs by hand or by any other method whereby the water temperature, cleaning and sanitizing agents, and bacterial contamination cannot be controlled is prohibited.
- g) Motor driven rotary cleaning pads, hand sanding, or other "dry

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

cleaning" devices may be used to clean eggs, but they are not recommended. Dry cleaning pulverizes the dirt thereby spreading it over all adjoining surfaces, including eggs. In the absence of an adequate air filtering system, the process shall be considered as air pollution and a health hazard for persons handling the eggs.

(Source: Amended at 19 Ill. Reg. 11.033, effective JAN 1 1935)

**Section 65.160 Minimum Sanitation Requirements for Retailers and Institutional Consumers**

- a) Only new packaging material will be used to sell eggs at retail. This regulation applies to any size container and the packing material used therein.
- b) Display cases in which eggs are offered for sale to consumers must be clean and free from any substances or conditions whereby the eggs could become adulterated through absorption of bacteria or odors which would affect the quality of taste of the eggs.
- c) All storage areas where eggs are held prior to being placed in display cases or other area accessible to consumers must be continuously maintained in a clean and sanitary condition. Eggs will not be stored in the same area with:
  - 1) consumer-size containers which have been rejected for damaged eggs,
  - 2) onions, fish, and other strong smelling food items,
  - 3) cleaning compounds, pesticides or any other chemicals of any kind or sort whatsoever.
- d) Upon receipt of eggs it is the responsibility of the retailer or institutional consumer to see that they are placed in a cooler, cold room or display case in which the temperature does not exceed 45° 68° F. at any time during which the eggs are held in the facility. In addition, eggs shall be protected from freezing.
- e) Institutional consumers shall not keep shell eggs in the kitchen or cooking area for longer than one hour from the time they are removed from the cooler.
- f) Retailers and institutional consumers should keep their supplies of eggs properly rotated at all times so that the oldest eggs as determined by the candling date on the master containers or consumer-size containers are used first.
- g) Consumer-size containers holding damaged eggs whereby the contents are exuding or free to exude through the shell membranes shall be removed from the display area. If such damage results in spillage of egg contents on other cartons or upon the bottom of the display case, the cartons or display case floor must be cleaned within a reasonable time.
- h) In all storage areas, master containers shall be kept above the floor at all times.



## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 19 Ill. Reg. 16933, effective JAN 1 1995)

**Section 65.170 Retail Egg Inspection**

- a) When an inspector selects inspection samples to ascertain compliance with the Egg and Egg Products Act and the rules as they apply to grade and size of shell eggs, such samples shall be taken from the same areas or lots immediately available and offered for sale to retail customers.
- b) If a disproportionate number of checks and leakers are found indicating the lack of reasonable store surveillance of the egg display, the inspector will issue a violation notice. In determining if a violation exists, the inspector will consider the damage possibly inflicted by the store's patrons, past inspection history indicating previous lack of surveillance of the egg display, and whether the number of checks and leakers exceed minimum federal egg grading standards (7 CFR 56 (January 1, 1995), May-17-1991).

(Source: Amended at 19 Ill. Reg. 16933, effective JAN 1 1995)

**Section 65.180 Enforcement**

- a) Stop Sale Notices. Inspectors of the Department of Agriculture, upon determining that the provisions of the Act or the rules promulgated for its enforcement have been violated, shall place "Stop Sale Notices" on eggs being offered, displayed, stored, processed, or transported in violation of the provisions of the Act or the rules thereof. ~~The Department shall advise the violator in writing of an administrative hearing to present his case. If the violation is corrected prior to the date of the administrative hearing, the licensee shall notify the Department and if, upon examination, the Department determines that the correction has been made, the license will be notified that no hearing will be held. The administrative hearing shall be conducted in accordance with 8 Ill. Adm. Code 65-230. If the hearing officer determines a violation has occurred, the case shall be submitted to the courts in accordance with Section 18 of the Act.~~ Eggs upon which a Stop Sale Notice has been issued shall not be sold, transferred or otherwise disposed of until such Stop Sale Notice has been cancelled by the Director of Agriculture, or his duly authorized agent.

- b) At the retail level, all consumer-size containers within a lot determined to be in violation of the Act or the rules thereof shall be stamped individually as follows: "Not To Be Sold -- Ill. Dept. of Agri." Any consumer-size containers so stamped shall not be sold at retail and shall be picked up by or returned to the person from whom they were purchased or obtained, or destroyed in the presence of the

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

- c) Inspection Samples. Whenever eggs are offered for sale or being held for the purpose of selling, any authorized inspector or employee of the Department of Agriculture may enter and take representative samples.
- d) ~~Seizure: Eggs held to be in violation of any provision of this Act or its rules may be seized by any authorized inspector or employee of the Department of Agriculture for the purpose of holding as evidence.~~
- e) ~~Invoices, Reports and Information. When deemed necessary for proper enforcement of this Act, any producer-dealer, packer, handler, distributor, institutional consumer, retailer, or holder of an Illinois Egg License may be required to supply invoices, reports, or equivalent information, as may be specified by the Director of Agriculture or his agent.~~
- f) ~~When refusing to issue or renew, suspend or revoke a license, the Department shall conduct an administrative hearing to afford the respondent an opportunity to be heard in accordance with the provisions of Section 11.5 of the Act and 8 Ill. Adm. Code 65-230.~~

(Source: Amended at 19 Ill. Reg. 16933, effective JAN 1 1995)

**Section 65.190 Restricted Eggs (Definition, Labeling, Handling, Disposition)**

- a) "Restricted eggs" means shell eggs which are checks, dirties, incubator rejects, inedibles, leakers or loss. Except for the producer exemption as provided in paragraph (c), checks and dirties may be used for human food provided they are processed and pasteurized in an official plant.
- b) "Capable as use as human food" means any egg or egg product, unless it is denatured, or otherwise identified as required by Federal regulation to deter its use as human food (7 CFR 59 (January 1, 1995), May-17-1990).
- c) Within the classifications of eggs defined as restricted eggs, only checks and dirties are capable of use as human food, unless they are destroyed or identified and labeled for animal food. Checks and dirties shall be sold direct or indirect only to an official plant. However, a producer may sell on his own premises, where eggs are produced, checks and dirties directly to household consumers, for such consumer's personal use and his non-paying guests.
- d) Producer-dealers, packers, handlers, distributors, or retailers shall not sell on or off the premises within the State any restricted eggs to any person, including consumers, institutional consumers or employees.
- e) Restricted eggs will not be given free to any person including but not limited to institutional consumers, charitable organizations, or any employee whereby they may be used for human food.
- f) Restricted eggs may be designated for animal food only when properly

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

decharacterized or denatured to preclude their use in food for human consumption, and each container or receptacle shall be labeled "Restricted eggs, Not to be used as human food". However, restricted eggs which are not decharacterized or denatured may be moved from one U.S. Department of Agriculture licensed plant to another U.S.D.A. licensed plant.

g) Inedible and loss eggs must be denatured at point and time of segregation. If the liquid is removed from the shells, approved denaturant must be placed in the receptacle provided, before the liquid is added. If loss eggs are placed on fillerflats or in flats and fillers, or in any other manner, each layer of eggs must be denatured before another one is started. However, inedible and loss eggs under U.S. Department of Agriculture inspection and control shall be handled in accordance with U.S.D.A. recommendations.

h) Checks and dirties must be conspicuously labeled at point and time of segregation with a placard or other device. Full or partial master cases containing checks and dirties must be labeled before transfer to the cooler.

i) Producer-dealers with less than 3000 birds or any producers, regardless of size, who do no candling and grading, are not required to register under the Federal Egg Products Inspection Act. Producer-dealers with less than 3000 birds who candle and grade eggs must be licensed by the State and therefore be subject to these rules as they apply to restricted eggs.

(Source: Amended at 19 Ill. Reg. 16933, effective JAN 1 1996)

## Section 65.200 Denaturants

Illinois standards for use of denaturants shall be those as required by the Federal Egg Products Inspection Act (21 U.S.C.A. 1039-6/29/72) and its rules (7 CFR 59.504(c) (January 1, 1995) 7-May-17-1996).

(Source: Amended at 19 Ill. Reg. 16933, effective JAN 1 1996)

## Section 65.210 Egg Inspection Fee

a) An inspection fee of 5¢ per case (30 dozen equals a case) or fraction thereof shall be imposed on all eggs bearing a designated size and grade which are offered for sale or sold in the State of Illinois.

b) The first handler of any eggs offered for sale or sold in Illinois who packed and sold the eggs shall pay the prescribed inspection fee on such eggs. In the event that the eggs are shipped into Illinois, the handler who invoiced the eggs to Illinois last-out-of-state-handler or distributor shall pay the fee.

c) The handler paying the inspection fee shall charge on each sales

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

invoice the amount of the inspection fee as the transaction in addition to the price of the eggs.

d) Eggs sold or shipped out of the State of Illinois are exempt from inspection fees.

e) The inspection fee shall be paid only once on the same quantity of eggs so long as said eggs maintain their identity by remaining in their original case, carton or container.

f) Persons responsible for the payment of the inspection fees shall report every three months the number of master containers (cases of 30 dozen eggs per case) of eggs subject to the inspection fee on forms supplied by the Department. Exception: Persons selling less than 600 master containers of eggs per year subject to the inspection fee shall report the number of master containers sold and remit fees on an annual basis at the time of license renewal. Such reports shall be accompanied by a remittance in an amount corresponding to said number of master containers at the rate prescribed per master container.

1) In the events below, the Director shall summon the delinquent person or firm to an administrative hearing in Springfield whereby his license may be suspended or revoked:

A) the quarterly report is established as being false or incorrect, or

B) the report is not received within 30 days of the due date.

2) The quarters are as follows: January 1st to March 31st; April 1st to June 30th; July 1st to September 30th; October 1st to December 31st.

g) The inspection fee applies to all eggs identified with a consumer Grade "AA", "A", or "B" packed loose or packaged in cartons.

(Source: Amended at 19 Ill. Reg. 16933, effective JAN 1 1996)

## Section 65.220 Illinois Grade Standards

The standards for shell eggs for the State of Illinois shall be those standards as set by the United States Department of Agriculture for shell eggs (see 7 CFR 56 (January 1, 1995) 7-May-17-1996).

(Source: Amended at 19 Ill. Reg. 16933, effective JAN 1 1996)

## Section 65.230 Administrative Hearings (Repealed)

All decisions and actions of the Department are subject to the Illinois Administrative Procedure Act (5 ILCS 100/1-100/10) and the Department's Administrative Rules (8 ILCS 100/1-100/10) which pertain to administrative hearings, petitions, contested cases, declaratory rulings, and availability of Department's files for public access. Administrative hearings are governed by the Illinois Administrative Procedure

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

Act and Subpart B of the Department's Administrative Rules, the final administrative decision of the Department (see 8 Ill. Adm. Code 1.75(k) and 1.340) shall be subject to Section 19 of the Act.

(Source: Repealed at 19 Ill. Reg. 1.0033, effective  
JAN 1 1996)

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Franchise Disclosure Act

2) Code Citation: 14 Ill Adm Code 200

3) Section Numbers: Adopted Action:

200.106	Amended
200.110	Amended
200.115	New
200.201	Amended
200.408	Amended
200.411	Amended
200.500	Amended
200.502	Amended
200.600	Amended
200.603	Amended
200.605	Amended
200.607	Amended
200.608	New
200.609	New
200.702	Amended
200.800	Amended
200.900	Amended
200.Appendix A	Amended
Illustration A	Amended
Illustration B	Amended
Illustration C	Amended
Illustration D	Amended
Illustration G	Amended
Illustration K	Repealed
Illustration L	Amended
200.Appendix B	Amended
Illustration A	Amended
Illustration C	Amended
Illustration D	New
200.Appendix C	Amended
Illustration A	Amended
Illustration B	Amended
200.Appendix E	Amended
200.Appendix F	Amended
Illustration A	Amended

4) Statutory Authority: Section 705/32 of the Franchise Disclosure Act of 1987 (815 ILCS 705/32).

5) LTEffective Date of Rulemaking: January 1, 1996

6) Does this rulemaking contain an automatic repeal date? No



## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- 7) Does this rulemaking contain incorporation by references? No
- 8) Date filed in agency's principal office: January 1, 1996
- 9) Notice of Proposal Published in Illinois Register: June 16, 1995 (19 Ill. Reg. 7647).
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:
- 200.106 Corrected an erroneous reference to the Franchise Act in the text of this rule 200.106(a).
- 200.201-200.202 Retains exemption for franchises valued over \$1,000,000 but changes it from an exemption by rule (Rule 200.202) to an exemption that must be applied for (Rule 200.201).
- 200.600 a)3) Changes "Salesman" to "Salesperson."
- 200.603 a) eliminates the word "original" as it pertains to franchisors registration dates because "original" date may become ineffective and would then confuse the issue of when annual reports are due.
- 200.603 a)2) Removes reference to Appendix A, Illustration K, which Illustration is being repealed.
- 200.603 a)4) Changes "Salesman" to "Salesperson."
- 200.603 d) Further clarifies when Annual Reports are invalid and when franchise sale activity can and cannot take place.
- Appendix A Illustration C Changes the title "Salesman" Disclosure to "Salesperson" Disclosure in the Table of Contents and the rule's text title.
- Appendix A Illustration D Changes Uniform Consent to Service to require service upon the actual defendant franchisor instead of just upon the Attorney General and the "request" that a copy be sent to the actual defendant.
- Appendix A Illustration G Corrects two typographical errors by changing "known" to "know" in the second line and by changing "exhibit" to plural "exhibits" in the last line.
- Appendix B Illustration C Changes statutory citation from Illinois Revised Statutes to Illinois Compiled Statutes reference.

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- Appendix E.1 Changes "order" to plural "orders".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking:
- FTC/UFOC Compliance**  
(Federal Trade Commission/Uniform Franchise Offering Circular)
- Sec.200.201 requires financial statements from exemption applicants when the FTC Franchise Rule grants an exemption from filing an offering circular.
- Sec.200 Appendix A amendments to Illustration L are for the purpose of bringing our requirements into conformity with the new UFOC accepted by all regulatory states and the FTC.
- Technical Changes and Corrections**
- Sec.200.106 a) corrects an erroneous reference to the Act.
- Sec.200.408 updates "shorthand reporter" to "court reporter".
- Sec.200.411 c) updates proper citation to ILCS. (Illinois Compiled Statutes)
- Sec.200.600 eliminates duplicate copies in eight of nine types of required documents
- Sec.200.603 recognizes name change and effective date of UFOC.
- Sec.200.605 makes filing of two copies of disclosure statement an option on the part of the agency instead of requiring everyone to file duplicate copies.
- Sec.200.607 increases copying/mailling charge for circular from \$40 to \$50.
- Appendix A Illustration C changes "Salesman Disclosure" to "Salesperson Disclosure".
- Appendix A Illustration D changes Uniform Consent to Service of Process from a request that the Plaintiff also serve the franchisor to requiring such service upon the Defendant.

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Appendix A Illustration G corrects two typographical errors by changing "known" to "know" in the second line and by changing "exhibit" to plural "exhibits" in the last line.

Appendix A. Illustration K is repealed because the Acknowledgment of Receipt form is no longer being used.

Appendix A. Illustrations M and N are not changed as to their text, but now appear in the Table of Contents where the official Administrative Code Version had omitted such references.

Appendix B Illustration C updates proper citation to ILCS.

Appendix E 1. changes "order" to plural "orders"

**RESPONSES TO CHANGES IN FRANCHISE INDUSTRY**

Sec.200.115 further defines "offer" to include franchisor participation in trade shows. This is not a new concept, rather it is a reminder that disclosure is required at the "first meeting" with the potential franchisee.

Sec.200.202, now moved to 200.201, recognizes that our Act is intended to protect vulnerable franchisees through disclosure, but that franchisees valued at over \$1,000,000 will likely involve sophisticated participants on both sides that will insure adequate disclosure to make an informed business decision without the Attorney General participating in registration beyond obtaining brief preliminary information.

In changing this proposed rule from an automatic exemption to one that must be applied for we intended to avoid the potential argument that the Act gives the Administrator discretion to exempt franchisees on a case by case basis, but by making the exemption automatic we would be removing discretion by rule instead of seeking legislation to amend the statute. Another reason for requiring an application for exemption is to obtain some basis for the exemption rather than merely being forced to accept the unsupported conclusion that the franchise is valued at \$1,000,000 or more.

Sec.200.600 c) recognizes the new franchisor dilemma when audited statements are not available during the first fiscal year.

Sec.200.603 a)(3) also deals with phase-in requirement for new franchisors.

Sec.200.603 a) and d) clarifies what the Annual Report must contain; when it must be filed; and when franchise sales activity must cease. The franchisor is allowed a thirty day window to wind up pending franchise sales before it is no longer legally registered. The old rule required

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

all activity to cease if the annual report filing date was missed and a termination order was issued.

**CLARIFICATION OF FRANCHISE ACT INTERPRETATION**

Sec.200.110 h) clarifies that mergers are considered material changes required to be included in a disclosure statement.

Sec.200.500 a) adds a third administrative choice to solving the problem of negative stockholder equity (guarantee of performance).

Sec.200.500 b) adds the additional criterion for evaluating the franchisors financial resources (proportion of receivables compared to other assets).

Sec.200.502 makes the escrow of the initial franchise fee 100% instead of "not more than" 100 percent.

Sec.200.608 clarifies jurisdiction and choice of law under Sec.4 of the Act as being Illinois regardless of the franchise agreement (except for arbitration outside of Illinois).

Sec.200.609 further explains that according to Sec. 41 of the Act, compliance with the Act cannot be waived when a franchisee is acquiring a franchise.

Sec.200.800 a) clarifies that lack of diligence by applicant that wishes to proceed will require an updated application.

Sec.200.900 requires franchise broker applicants to submit both an audited balance sheet and an income statement prepared by an independent CPA.

16) Information and questions regarding these adopted amendments shall be directed to:

Robert Tingler  
Office of the Attorney General  
Franchise Bureau  
100 West Randolph Street  
12th Floor  
Chicago, IL 60601  
(312) 814-3892

The full text of the adopted amendments begins on the next page:

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

TITLE 14: COMMERCE  
SUBTITLE A: REGULATION OF BUSINESS  
CHAPTER II: ATTORNEY GENERAL

## PART 200

## FRANCHISE DISCLOSURE ACT

## SUBPART A: DEFINITIONS

Section	Act
200.100	Disclosure Statement
200.101	Marketing Plan or System
200.102	Substantially Associated
200.103	Franchise Fee
200.104	Absence of Fee Exclusion
200.105	Bona Fide Wholesale and Retail Price
200.106	Established Market
200.107	Indirect Franchise Fee
200.108	Consideration
200.109	Material Change
200.110	Administrator
200.111	Correspondent
200.112	Negotiated Change
200.113	Offer
200.114	
200.115	

## SUBPART B: OPINIONS, EXEMPTIONS

Section	Interpretive Opinions and No Action Letters
200.200	Order of Exemption
200.201	Exemptions by Rule
200.202	

## SUBPART C: ADVERTISING

Section	Deceptive Practices
200.300	Statements of Profitability
200.301	Opinions of Counsel
200.302	Inconsistencies with Disclosure Statement
200.303	Dollar Statements on Sales or Income
200.304	Filing Requirements
200.305	

## SUBPART D: HEARINGS

Section	Preamble
200.400	Party
200.401	

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

200.402	Hearing Officer
200.403	Office
200.404	Hearing Requests
200.405	Notice of Hearing
200.406	Requirements Relating to Continuances
200.407	Rules of Evidence in Hearings
200.408	Record of Proceedings
200.409	Record of Hearing
200.410	Duties of Hearing Officer
200.411	Final Administrative Decision

SUBPART E: DENIAL BASED ON FINANCIAL STATEMENTS,  
ESCROW, GUARANTY, SURETY BOND

Section	Assurance of Financial Ability to Fulfill Obligations
200.500	Escrow of Funds
200.502	Release of Escrowed Funds
200.503	Guarantee of Performance
200.504	Performance or Surety Bond
200.505	Certificate of Deposit
200.506	Release of Certificate of Deposit
200.507	Deferral of Franchise Fee
200.508	

## SUBPART F: REGISTRATION REQUIREMENTS

Section	Original Registration
200.600	Notification of Registration
200.602	Annual Report
200.603	Amendment Application
200.604	Final Circular Submission
200.605	Multiple Filings
200.606	Public Examination and Photocopying of Disclosure Statements
200.607	Jurisdiction and Venue
200.608	Waiver
200.609	

SUBPART G: AREA FRANCHISE AND SUBFRANCHISE REGISTRATION  
REQUIREMENTS-RESPONSIBILITIES FOR FILING

Section	Number of Applications
200.701	Responsibility for Filing the Application
200.702	Time for Filing the Application (Repealed)
200.703	

Section	Failure to Diligently Prosecute Application
200.800	
200.801	





## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

franchise or related agreements;

- e) A decrease in the franchisor's income or net worth; and
- f) Limitations or significant prospective limitations regarding sources of supply which are known to or should reasonably be anticipated by the franchisor; and
- g) Additional litigation or a significant change in the status of litigation including:
  - 1) the filing of an amended complaint alleging or involving violations of any franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or breach of contract;
  - 2) the entry of any injunctive or restrictive order relating to the franchise; or the entry of any injunction under any federal, state or Canadian franchise securities, anti-trust trade regulation or trade practice law; and
  - 3) the entry of a judgment that has or would have any significant financial impact on the franchisor. Such a judgment is considered to have significant financial impact if it equals 15% or more of the current assets of the franchisor and its subsidiaries on a consolidated basis; and
- h) The reincorporation of the franchisor or its merger into a corporation other than the registrant. In a merger where the surviving corporation changes its name to that of the original registrant, a material change has still occurred.

(Source: Amended at 19 Ill. Reg. 16950, effective JAN 1 1996)

## Section 200.115 Offer

"Offer" or "offer to sell" includes participation in a trade show by a franchisor which is attended by prospective franchisees. A franchisor shall not participate as an exhibitor at a trade show or otherwise attempt to solicit franchise sales at a trade show unless the franchisor is registered with the Administrator or is otherwise exempt from registration.

(Source: Added at 19 Ill. Reg. 16950, effective JAN 1 1996)

## SUBPART B: OPINIONS, EXEMPTIONS

## Section 200.201 Order of Exemption

- a) Pursuant to Section 9 of the Act, the Administrator may by Order grant exemptions from the registration and disclosure requirements of the Act. The Administrator will consider whether to issue such an Order upon submission of the following:
  - 1) A cover letter describing the basis for the exemption by

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

reference to this Section and to Section 9 of the Act;

- 2) A description and history of the applicant, the franchise fees and initial investment, and the proposed number of franchise sales in Illinois within the ensuing twelve months;
  - 3) A description of the applicant's litigation history as stated in item 3 of the Uniform Franchise Offering Circular (U.F.O.C.) which is attached as Appendix A, Illustration L;
  - 4) A description of any bankruptcy petition filed by or against the franchisor, its officers, directors or predecessors within the last fifteen years;
  - 5) A copy of the franchise agreement;
  - 6) Copies of all promotional materials;
  - 7) A list of all sales and advertisements in Illinois since January 1, 1974;
  - 8) A list of administrative agencies which have issued or denied exemptions or opinions and copies of the exemptions or opinions;
  - 9) A statement of the number of company owned and franchised units in the United States and in Illinois;
  - 10) A statement of the number of franchises the franchisor intends to sell in Illinois in the following one year;
  - 11) A Federal Trade Commission prospectus or a Uniform Franchise Offering Circular if required by 16 CFR 436 as of 1983;
  - 12) A certification of facts;
  - 13) Financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) for the most recent fiscal year if the franchisor is exempt under 16 CFR 436.
- b) Exemption requests will be granted only when in the public interest. An exemption is considered in the public interest:
- 1) If the franchisor intends to sell only one or two franchises in Illinois in the ensuing twelve months; and
  - 2) If the litigation and bankruptcy history described in subsection (a) above is not materially adverse to the interest of prospective franchisees; and
- 3) If the franchisor agrees to provide the franchisee with a Federal Trade Commission prospectus, if required by 16 CFR 436, as of 1983, within the time period required by the Federal Trade Commission; and
- 4) If the franchisor obtains a letter from the prospective franchisee's attorney, after issuance of the exemption but within the time period described in Section 5(2) of the Act; stating that he has explained the Act to his client, and the client does not object to issuance of the exemption, and forwards the letter to the Administrator. Prior to procurement of this letter, but after issuance of the exemption, the franchisor may solicit franchisees but may not have a contract signed or require a prospective franchisee or subfranchisor to pay consideration.
- c) Application for exemption from Sections 5 and 10 of the Act may be made with regard to the offer and sale of a single unit franchise in



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

which the actual minimum initial investment is in excess of \$1,000,000. The Administrator will consider whether to issue such an Order upon submission of the following:

- 1) A cover letter describing the bases for the exemption by reference to this Section and to Section 9 of the Act;
- 2) A description and history of the applicant and a statement showing all franchise fees and the initial investment required such that the total investment is in excess of \$1,000,000;
- 3) A statement of the number of franchisees the franchisor intends to sell in Illinois in the following year;
- 4) A description of any litigation brought by a franchisee or franchise regulatory agency against the franchisor during the prior two years; and
- 5) A Federal Trade Commission prospectus or a Uniform Franchise Offering Circular.

(Source: Amended at 19 Ill. Reg. 16950, effective JAN 1 1996)

## SUBPART D: HEARINGS

## Section 200.408 Record of Proceedings

- a) A licensed court shorthand reporter called by the Administrator, at its expense, shall be present at each hearing and shall take a permanent and complete record of the proceedings.
- b) Upon request, and at his own expense, any party may have a copy of the record.

(Source: Amended at 19 Ill. Reg. 16950, effective JAN 1 1996)

## Section 200.411 Final Administrative Decision

- a) A final administrative decision shall be issued by the Administrator in writing within one (1) month of receipt of the Hearing Officer's recommendation. The Hearing Officer's recommendation, rulings and findings of fact and law are to be taken into account but are not binding on the Administrator. However the final administrative decision must be based exclusively on evidence in the record. The Administrator may refuse to accept the factual recommendations of the Hearing Officer only when all the evidence, viewed most favorably to the party for whom the Hearing Officer held, so overwhelmingly favors the other party, that no contrary holding based on that evidence could withstand Administrative Review under the Administrative Review Act because the findings of fact of the Hearing Officer are against the manifest weight of the evidence. A copy of the final administrative decision shall be sent by certified or registered mail to each party

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- or his representatives.
- b) The final administrative decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- c) The final order of the Administrator shall constitute a final administrative decision within the provisions of the Administrative Review Act [735 ILCS 5/Art. III] ~~444-Rev-Stat-1987-ch-119-part-3-101-et-seq-7.~~

(Source: Amended at 19 Ill. Reg. 16950, effective JAN 1 1996)

SUBPART E: DENIAL BASED ON FINANCIAL STATEMENTS,  
ESCROW, GUARANTY, SURETY BOND

## Section 200.500 Assurance of Financial Ability to Fulfill Obligations

An application will be denied or a registration suspended if the franchisor's financial condition affects or would affect the ability of the franchisor to fulfill its obligations as mentioned in Section 22(a)(8) of the Act unless the franchisor assures that it will be able to meet its obligations to the franchisee as described below:

- a) If, after examination of the financial statements of the franchisor and the duties and obligations of the franchisor contained in the franchise or other agreement to furnish goods and/or services to assist its franchisees in establishing and opening their business, the Administrator determines that adequate financial resources are not available to the franchisor for the performance of said obligations or that the franchisor will depend primarily on the initial franchise fees paid by franchisees as such financial resources (the franchisor has no other apparent source of income or assets), the Administrator will require the franchisor at the franchisor's option to assure financial capability by one of the following means: an escrow of funds, guaranty of performance, the posting of a surety bond, the issuance of a Certificate of Deposit, or the deferral of the initial franchise fees until the franchisor has met its obligations to the franchisee and the franchisee has commenced doing business. However, if the franchisor's most recent balance sheet disclosed negative stockholder's equity, then the Administrator will require the franchisor to either post a surety bond or to escrow funds, or to provide a guaranty of performance at his option.

- b) When determining whether adequate financial resources are available, the Administrator shall give consideration to the applicant's recent financial statements. The following criteria shall be considered in making the determination: the auditor's opinion letter or review report, notes to the financial statements, the current ratio, the quick ratio, the amount of working capital, the proportion of tangible



## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

and intangible assets, the amount and maturities of debts, the debt/equity ratio, the amount of equity, the earnings history, the proportion of receivables compared to other assets, and the quality of receivables (e.g., financial statements reflect receivables that will not be collected, including bad debts, a debt discharged in bankruptcy, or the failure to allow for aged receivables).

- c) Registration under the provisions of this Section shall be limited to the sale of the number of franchises authorized by the Administrator. The Administrator will make that decision based upon the franchisor's demonstrated willingness to fulfill its obligations to a specific number of franchisees.

(Source: Amended at 19 Ill. Reg. 16950, effective JAN 1 1996)

## Section 200.502 Escrow of Funds

The Administrator may impose as a condition to registration an escrow of not more than 100% of the initial franchise fee paid by a franchisee who is a resident of Illinois to the franchisor or an affiliate of the franchisor until the initial obligations of the franchisor to assist the franchisee to establish and open his business are fulfilled. (See Appendix C, Illustration A.) When an escrow is imposed in connection with the registration of a franchise offering, the escrow account shall comply with the following requirements:

- Checks shall be made payable to the escrowee by the franchisee;
- The account shall be established in a federally insured bank, and the funds shall be kept and maintained in an account separate and apart from the franchisor's business and personal accounts;
- All proceeds so deposited shall remain the property of the franchisee and shall not be subject to any liens or charges by the escrowee or judgments, garnishments, or creditor's claims against the franchisor as hereinafter provided. This escrow is for the benefit of each franchisee in the amount paid by each franchisee;
- At the request of the Administrator, statements indicating the status of the escrow shall be furnished by the bank or trust company to the Administrator; and
- An escrow agreement in the form set forth in Appendix C, Illustration A hereto, shall be entered into between the bank and the franchisor, which shall state that its purpose is to protect the franchisee and shall authorize the Administrator to inspect the records of the bank as escrowee relating thereto, and shall state that, upon order of the Administrator or a court of competent jurisdiction, the escrowee shall release and pay over the funds, or a portion thereof, to the franchisor or franchisee.

(Source: Amended at 19 Ill. Reg. 16950, effective JAN 1 1996)

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## SUBPART F: REGISTRATION REQUIREMENTS

## Section 200.600 Original Registration

- a) Documents to File
- The following materials must be submitted in duplicate to the Administrator to obtain registration:
- 1) Uniform Franchise Registration Application Page, Appendix A, Illustration A;
  - 2) Supplemental Information Page, Appendix A, Illustration B;
  - 3) Salesperson Salesman Disclosure Form for each salesperson employed by the applicant, Appendix A, Illustration C;
  - 4) Uniform Consent to Service of Process naming the Illinois Attorney General as agent to receive service, with corporate, individual or partnership acknowledgment, Appendix A, Illustration D, E, F, G and H;
  - 5) Certification Page, Appendix A, Illustration G;
  - 6) Auditor's consent letter granting consent to use each audited report in the registration, Appendix A, Illustration H;
  - 7) Advertising or promotional materials;
  - 8) Disclosure Statement in duplicate (See Section 200.101); and
  - 9) A \$500.00 nonrefundable fee payable to the State of Illinois.
- b) Signing of Application: The application shall be signed by an authorized officer of the applicant; however, it may be signed by another person holding a power of attorney for such purposes from the applicant. If signed on behalf of the applicant pursuant to such power of attorney, the application shall include as an additional exhibit a copy of the power of attorney or a copy of the corporate resolution authorizing the attorney to act.

- c) Phase In Of Audit Requirement: Franchisors who have never had audited financial statements and are filing their first application with the Administrator may request a phase in of the audit requirement. All unaudited statements must be prepared by an independent CPA in accordance with GAAP. Initial registration will be granted using the unaudited statements which cover the time periods set forth in UFOC Item 21. The franchisor must notify its CPA to count the opening inventory at the beginning of the franchisor's fiscal year which commences after the registration has been filed. At the end of that fiscal year, the balance sheet must be audited. The remainder of that financial statements for that fiscal year may be unaudited but must independently be prepared in accordance with GAAP. Financial statements for the following fiscal year must be fully audited. Phase in--Of-Audit-Requirement--Franchisors--who--have--never--had--audited financial statements--and--who--are--filing--their--first--application--with the--Administrator--may--request--a--phase--in--of--the--audit--requirement--All--unaudited--statements--must--be--prepared--by--an--independent--CPA--A--first--registration--year--all--financial--statements--may--be unaudited--The--franchisor--must--notify--its--CPA--to--count--the--opening

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

~~inventory-at-the-beginning-of-the-franchisor's-fiscal-year-which commences-during-this-first-registration-year-Bring-the-second registration-year-the-franchisor's-balance-sheet-must-be-audited. All-other-financial-statements-may-be-unaudited-Bring-the-third registration-year-and-thereafter-all-of-the-franchisor's-financial statements-must-be-audited.~~

(Source: Amended at 19 Ill. Reg. 18950, effective JAN 1 1996)

## Section 200.603 Annual Report

a) To maintain the effectiveness of registration, a franchisor must file the Annual Report required by Section 10 of the Act 30 days prior to the anniversary date of its original registration date. The filing of the Annual Report shall include:

- 1) A non-refundable filing fee of \$100.00;
- 2) Copies of franchisee signed acknowledgments of receipt of the Disclosure Statement ~~in-the-form-shown-in-Appendix-A-7 illustration-7~~ listing exhibits that are required by the UFOC (North American Midwest Securities Administrators Commissioners Association, September 2, 1975, as amended and effective April 25, 1993 ~~January-17-1988~~ without further additions or amendments) for all franchises subject to Section 10 of the Act sold since the most recent Annual Report was filed or date of registration ~~in-the-preceding-registration-year~~ and copies of corresponding signed and dated contract pages from all such sales;
- 3) Two (2) complete unbound copies of the franchisor's disclosure statement updated as of 120 days of the franchisor's anniversary date. The phase in of the Audit Requirement continues ~~As referenced-in-Section-200.600(c)-during-the-second-year-of registration-the-franchisor's-balance-sheet-must-be-audited. Bring-the-third-registration-year-and-thereafter-all-of-the franchisor's-financial-statements-must-be-audited.~~ If the required audited financial documents are not current within 120 days after the anniversary date, interim financials prepared in accordance with GAAP consisting of a balance sheet and corresponding income statement for the period between the close of the franchisor's most recent fiscal year and the date of the balance sheet must be submitted. All material changes in the disclosure statement must be underlined in red on one (1) copy of the disclosure statement. The updated disclosure statement shall replace the disclosure statement previously submitted to the Administrator;
- 4) Salesperson ~~Salesman~~ Disclosure Form for each salesperson employed by the applicant, Appendix A, Illustration C;
- 5) Certification page, Appendix A, Illustration G;
- 6) Auditor's consent letter granting consent to use each audited

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- report in the registration, Appendix A, Illustration H;
- 7) A cover letter from the correspondent listing all documents submitted in the Annual Report and summarizing the material changes in the disclosure statement;
  - b) If the franchise is registered pursuant to conditions required under Section 200.500 and the franchisor has sold that number of franchises previously authorized by the Administrator, additional sales must be authorized by the Administrator in accordance with the terms of Section 200.500;
  - c) All other documents listed in Section 200.600 need not be submitted with the Annual Report if the information contained in them is current. If the information contained in those documents is no longer current, updated documents must be filed with the Annual Report; and
  - d) If the franchisor fails to timely submit an Annual Report, the Administrator shall enter an order pursuant to Section 22 of the Act declaring that the franchisor's registration is terminated effective as of the anniversary date of its registration date ~~date-the-Annual Report-was--due.~~ Annual Reports received after the Annual Report filing expiration date are invalid. A franchisor whose registration is terminated due to its failure to file an Annual Report must file as an original registrant and comply with Section 200.603(a)(2) and (3) if it desires to offer or sell franchises in this State. A terminated franchisor may complete the sale of a franchise up to the effective termination/anniversary date without re-registering.

(Source: Amended at 19 Ill. Reg. 18950, effective JAN 1 1996)

## Section 200.605 Final Circular Submission

A registrant may be required to submit one extra, complete unbound copy of the Disclosure Statement, including all revisions and exhibits, within one month of the date of registration. This requirement applies to original registrations and amendments.

(Source: Amended ~~at 19 Ill. Reg. 18950~~, effective JAN 1 1996)

## Section 200.607 Public Examination and Photocopying of Disclosure Statements

Any disclosure document registered under the Act may be examined at the office of the Administrator or ordered by mail for \$50.00 ~~\$40.00~~ payable to the State of Illinois from the Illinois Attorney General, Franchise Division, 500 South Second Street, Springfield, Illinois 62706.

(Source: Amended ~~at 19 Ill. Reg. 18950~~, effective JAN 1 1996)



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

**Section 200.608 Jurisdiction and Venue**

As described in Section 4 of the Act, a franchise agreement shall not require a franchisee to litigate any cause of action, with the exception of arbitration proceedings, arising under the franchise agreement or the Act outside of this State, nor shall a franchise agreement provide for a choice of law provision for any state other than Illinois.

(Source: Added at 19 Ill. Reg. 16950, effective  
JAN 1 1996)

**Section 200.609 Waiver**

No franchisor shall attempt to circumvent compliance with the Act by requiring a franchisee to execute any document evidencing waiver of any right granted by the Act as described in Section 41 of the Act. This prohibition against waiver includes, but is not limited to, statements involving unregistered earnings claims, timely disclosure, warranty, material misrepresentations or limitation of liability.

(Source: Added at 19 Ill. Reg. 16950, effective  
JAN 1 1996)

**SUBPART G: AREA FRANCHISE AND SUBFRANCHISE REGISTRATION  
REQUIREMENTS-RESPONSIBILITIES FOR FILING**

**Section 200.702 Responsibility for Filing the Application**

- When both the franchisor and the subfranchisor have performance obligations to the subfranchisee, whether such obligations are set forth in the franchise agreement or other written document or arise as a matter of practice, it is the responsibility of both the franchisor and the subfranchisor to register the offer of the subfranchise. The application for registration regarding the subfranchise shall contain a signature page from both the franchisor and the subfranchisor, each certifying as to the accuracy of the information he supplied, as well as a properly executed consent to service of process from each. Both the franchisor's and subfranchisor's financial statements are to be included in the disclosure statement.
- If the franchise agreement is solely between a subfranchisor and a subfranchisee and the franchisor has no material performance obligations under the franchise or any other agreement, then the responsibility for registering the offer of the subfranchise is that of the subfranchisor. The franchisor need only verify the information in the application that is relevant to the franchisor.
- If the franchise agreement is solely between the franchisor and the subfranchisee, the subfranchisor is not a signatory to any such agreement, the franchisor has the primary performance obligations to

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

the subfranchisee, then the responsibility for registering the offer of the subfranchise is that of the franchisor. The subfranchisor need only verify the information in the application relevant to the subfranchisor. This subsection will not apply if the area franchise agreement requires the subfranchisor to service subfranchisees, despite the lack of direct privacy between the subfranchisor and the subfranchisee.

(Source: Amended 19 Ill. Reg. 16950, effective  
JAN 1 1996)

**SUBPART H: FAILURE TO DILIGENTLY PROSECUTE APPLICATION****Section 200.800 Failure to Diligently Prosecute Application**

When an application for registration of a franchise or franchise broker has been on file with the Administrator for a period of at least six months and has not become effective or registered, the Administrator shall proceed in the following manner to determine whether the application has been abandoned by the applicant:

- A notice will be sent to the applicant and the correspondent by registered or certified mail, return receipt requested, addressed to the most recent addresses for the applicant and the correspondent as contained in the application. The notice will inform the applicant and correspondent that the application is out of date and must either be updated and revised to comply with the Administrator's deficiency letter previously sent under Section 10 of the Act or withdrawn within 30 days after the date of the notice.
- If the applicant or correspondent fails to respond to such notice by filing a revision or withdrawing the application or does not furnish a satisfactory explanation as to why it has not done so within 30 days, the Administrator will enter an order declaring the application abandoned and will deny such application.
- The application form will be plainly marked in the following manner: "Declared abandoned and denied by order dated \_\_\_\_\_".
- The filing fee is not refundable.

(Source: Amended 19 Ill. Reg. 16950, effective  
JAN 1 1996)

**SUBPART I: REGISTRATION OF FRANCHISE BROKERS****Section 200.900 Documents to File**

Each franchise broker shall file with the Administrator the documents listed below in duplicate and pay an annual \$100.00 registration fee.

- Franchise Broker application page, Appendix B, Illustration A;



ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

- b) Certification page, Appendix A, Illustration G;  
c) Salesperson Disclosure Form for each person who will be offering or selling franchises, Appendix A, Illustration C;  
d) Corporate, Partnership or Individual Acknowledgment, Appendix A, Illustrations E and F;  
e) Uniform Consent to Service of Process naming the Illinois Attorney General as agent to receive service, Appendix A, Illustration D;  
f) Broker Authorization Form, Appendix B, Illustration B;  
g) An audited independently-prepared balance sheet and income statement prepared by an independent CPA in accordance with GAAP current within 120 days certifying the net worth of the franchise broker.  
1) The net worth of the franchise broker who will accept cash or checks payable to such broker from a prospective franchisee must not be less than \$50,000.00;  
2) The net worth of a franchise broker who will not accept cash or checks payable to such broker from a prospective franchisee must not be less than \$5,000.00;  
3) In lieu of an audited balance sheet, the broker may post a surety bond in the amount of \$5,000.00 or \$50,000.00 depending on the facts indicated in (g)(1) and (g)(2) above, Appendix B, Illustration C;  
4) In lieu of the franchise broker's audited balance sheet the franchise broker may submit an audited balance sheet of a person, corporation or partnership having a net worth of \$5,000 or \$50,000 depending on the facts indicated in (g)(1) and (g)(2) above, a Guaranty of Performance from such other entity (Appendix D, Illustration A), a Corporate Resolution (Appendix D, Illustration B), a Secretary's Certificate (Appendix D, Illustration C), a Consent to Service of Process from the guarantor (Appendix A, Illustration D), and an Acknowledgment from the guarantor (Appendix A, Illustrations E or F);  
h) \$100.00 registration fee.

(Source: Amended at 19 Ill. Reg. 16950, effective JAN 1 1996)

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

Section 200.APPENDIX A Franchise Registration Forms

Section 200.ILLUSTRATION A Uniform Franchise Registration Application Page

File No. \_\_\_\_\_

(Insert file number of previous filings of Applicant, if any)

FEE: \_\_\_\_\_  
(To be enclosed by Applicant at time application is initially filed)

Date of Application: \_\_\_\_\_

Application For (Check only one):

\_\_\_\_ Registration of an offer or sale of franchises  
\_\_\_\_ Annual Report

Amendment-number-----to-application

-----Post-effective

Piled-under-Section-----

-----Pre-effective

Dated:-----

1. Name of Franchisor

Name under which the Franchisor is doing or intends to do business.

2. Franchisor's principal business address.

Name and address of Franchisor's agent in the State of Illinois authorized to receive process.

Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706

3. Name, address and telephone number of subfranchisors, if any, for this State state.

4. Name, address and telephone number of person to whom communications regarding this application should be directed.

(Source: Amended at 19 Ill. Reg. 16950, effective

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

JAN 1 1996 )

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

## Section 200. ILLUSTRATION B Supplemental Information

## 1. List the following:

- A. The states in which this proposed registration is effective.
- B. The states in which this proposed registration is or will be shortly on file.
- C. The states, if any, which have refused, by order or otherwise, to register this franchise these-franchises.
- D. The states, if any, which have revoked or suspended the right to offer this franchise these-franchises.
- E. The states, if any, in which the proposed registration of this franchise these-franchises has been withdrawn.
2. With respect to all franchises sought to be registered set forth, in budget form, the total projected financing required by the franchisor to fulfill the franchisor's obligations to provide real estate, improvements, equipment, inventory, training and all other items included in the offering. Show separately the sources of all of the required funds including any proposed loans or contributions to capital.

(Source: Amended at 19 Ill. Reg. 10950, effective  
JAN 1 1996 )

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Section 200. ILLUSTRATION C Salesperson Salesman Disclosure

1. List the persons who will offer or sell franchises in this State. For each person state: ~~As required by this State's statute list the persons who will engage in the offer or sale of franchises in this State and for each person list the following information:~~

- A. Name;  
 B. Business address and telephone number;  
 C. Home address and telephone number;

D. Present employer;

E. Present title;

F. Social security number;

G. Birthdate; and

H. Employment ~~or occupation~~ during the past 5 years. For each such employment state the name of the employer, position held and beginning and ending dates ~~date for each such employment~~.

2. State whether any person identified in 1. above:

A. Has any administrative, civil or criminal action pending ~~against~~ him alleging a violation of any franchise or securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or any comparable allegations?

YES \_\_\_\_\_ NO \_\_\_\_\_

- B. Has during the 10 year period immediately before the offering Circular date preceding the date of the offering circular:

(1) been convicted of a felony or pleaded nolo contendere to a felony charge or been held liable in a civil action by final judgment if the such felony or civil action involved a violation of any franchise or securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or any comparable violation of law?

YES \_\_\_\_\_ NO \_\_\_\_\_

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- (2) entered into or been named in any consent judgment, decree, order or assurance under any federal or state franchise, securities antitrust, monopoly, trade practice, or trade regulation law?

YES \_\_\_\_\_ NO \_\_\_\_\_

- (3) been subject to any order of any national securities association or national securities exchange (as defined in the Securities and Exchange Act of 1934, 15 U.S.C. 78a) suspending or expelling the such person from membership in the such association or exchange.

YES \_\_\_\_\_ NO \_\_\_\_\_

C. With respect to each question above answered "YES" state:

- (1) the name of each person or entity involved;

- (2) the court, agency, association or exchange involved;

- (3) a summary of the allegations;

- (4) if applicable, the date of the conviction, judgment, decree, order or assurance; and

- (5) the penalty imposed, damages assessed and nature thereof, terms and conditions of the judgment, decree, order or assurance.

(Source: Amended at 19 Ill. Reg. 16950, effective JAN 1 1996)



ATTORNEY GENERAL  
NOTICE OF ADOPTED AMENDMENT(S)

Section 200. ILLUSTRATION G Certification Page

I certify under penalty of law that I have read this application and the exhibits attached hereto and incorporated herein by reference, and know known the contents thereof and that the statements therein are true and correct.

Executed at \_\_\_\_\_, \_\_\_\_\_, 19 \_\_\_\_.

(Signature(s) of Franchisor,  
and/or Subfranchisor or Broker)

(SEAL)

By \_\_\_\_\_

Title \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS

COUNTY OF \_\_\_\_\_ )

Personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the above-named \_\_\_\_\_ (and) \_\_\_\_\_ the foregoing application (as known to be the person(s) who executed the foregoing application, as above-named applicant) and (each) being first duly sworn, stated upon oath that said application, and all exhibits exhibit submitted herewith, are true and correct.

(Notarial Seal)

Notary

10850

effective

Reg.

Ill.

at 19

Amended

(Source: JAN 1 1996)

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

Section 200. ILLUSTRATION D Uniform Consent to Service of Process

KNOW ALL MEN BY THESE PRESENTS: That the undersigned \_\_\_\_\_ (a corporation organized under the laws of the State of \_\_\_\_\_) (a partnership) (an individual) \_\_\_\_\_ for the purpose of complying with the laws of the State of \_\_\_\_\_ relating to the registration or sale of franchises hereby \_\_\_\_\_, irrevocably appoints the \_\_\_\_\_ (regulatory authority) \_\_\_\_\_ Illinois Attorney General and the successors in such office, its attorney in the State of \_\_\_\_\_ for service of notice Illinois upon whom may be served any notice, process or pleading in any action or proceeding against it arising out of or in connection with the sale of franchises, or a out of violation of the franchise aforesaid laws of \_\_\_\_\_ (state) said State; and consents the undersigned does hereby consent that an any such action or proceeding against it may be commenced in a any court of competent jurisdiction and proper venue within \_\_\_\_\_ (state) said State by service of process upon this said officer with the same effect as if the undersigned was organized or created under the laws of \_\_\_\_\_ (state) said State and had lawfully been served with process in \_\_\_\_\_ (state) said State.

A it is requested that a copy of any notice, process or pleading served pursuant to this consent shall be hereunder by mailed to:

(name and address)

Dated: \_\_\_\_\_, 19\_\_\_\_

By: \_\_\_\_\_

Title \_\_\_\_\_

(SEAL)

By: \_\_\_\_\_

Title \_\_\_\_\_

Notary Public

(Notarial Seal)

My Commission Expires:

10950

effective

Reg.

Ill.

at 19

Amended

(Source: JAN 1 1996)

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Section 200. ILLUSTRATION K Acknowledgment of Receipt (Suggested Format)  
(Repealed)

~~The undersigned, personally and/or as an officer or partner of the proposed franchisee, does hereby acknowledge receipt of the franchise disclosure document including all Exhibits attached thereto to wit: the Statement of Actual Sales by Franchisees (Exhibit A), the names, address and telephone numbers of the franchisor, the franchisees (Exhibit B), the name of the franchisor, the Audited Financial Statements for fiscal years 1977, 1978 and 1979 (Exhibit C), the name of the franchisor, the Franchise Agreement (Exhibit D), and the name of the lessor, the Equipment Lease Agreement (Exhibit E), etc.~~

Bated:-----

individually and as an officer or

partner of-----

a {-----corporation}

{-----partnership}

(Source: Repealed at 19 Ill. Reg. 16950 effective  
JAN 1 1996)

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Section 200. ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular

COVER PAGE: The State cover page of the offering circular must state:

1. The title in boldface type: **FRANCHISE OFFERING CIRCULAR**

2. The franchisor's name, type of business organization, principal business address and telephone number.

3. A sample of the primary business trademark, logotype, trade name, or commercial label or symbol under which the franchisee will conduct its business. (Place in upper left-hand corner of the cover page.)

4. A brief description of the franchised business.

5. The total amounts in Items 5 and 7 of the offering circular: Franchisee's Initial Franchise Fee or Other Payment and Franchisee's Initial Investment.

6. The following statements:

Information comparing franchisors is available. Call the State administrators listed in Exhibit or your public library for sources of information.

Registration of this franchise by a state does not mean that the state recommends it or has verified the information in this offering circular. If you learn that anything in the offering is untrue, contact the Federal Trade Commission and (State or Provincial authority).

7. Effective Date: (Leave blank until notified of effectiveness by State regulatory authority.)

## Cover Page Instructions:

i. Present information in the required order. Except for risk factors or when instructed by the examiner, do not capitalize or underline.

ii. The estimated cash investment should agree with the Item 7 total. This total should represent the franchisee's entire initial investment minus only exclusions allowed by Item 7. Do not state what the total includes.

iii. Limit the cover page disclosure to one page unless risk factors require additional space. Disclosure on the cover page should be brief. Limit the description of the business to the product or

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

service offered by the franchisor. Unless required by a State regulator, do not disclose financing arrangements or the franchisee's right to use the trademark. Exclude non-required information unless necessary as a risk factor or required by a State regulator.

iv. If applicable, disclose the following risk factors using the following language on the cover:

a. THE FRANCHISE AGREEMENT PERMITS THE FRANCHISEE (TO SUE) (TO ARBITRATE WITH) (franchisor) ONLY IN (state) OUT OF STATE (ARBITRATION) (LITIGATION) MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE (TO SUE) (TO ARBITRATE WITH) (franchisor) IN (state) THAN IN YOUR HOME STATE.

b. THE FRANCHISE AGREEMENT STATES THAT (state) LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.

c. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

vii. In multistate offerings in which the franchisor uses a single offering circular, refer to an exhibit to the offering circular for a list of State or Provincial authority.

TABLE OF CONTENTS: INCLUDE A TABLE OF CONTENTS BASED ON THE REQUIREMENTS OF THIS OFFERING CIRCULAR.

Table of Contents Instructions:

Refer to UFOC Items and state the page where each UFOC Item disclosure begins. List exhibits by letter. Use the following format:

SAMPLE TABLE OF CONTENTS:

ITEM	TABLE OF CONTENTS	PAGE
1	The Franchisor, its Predecessors and Affiliates .....	
2	Business Experience .....	
3	Litigation .....	
4	Bankruptcy .....	
5	Initial Franchise Fee .....	
6	Other Fees .....	
7	Initial Investment .....	
8	Restrictions on Sources of Products and Services .....	

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

9	Franchisee's Obligations .....	
10	Financing .....	
11	Franchisor's Obligations .....	
12	Territory .....	
13	Trademarks .....	
14	Patents, Copyrights and Proprietary Information .....	
15	Obligation to Participate in the Actual Operation of the Franchise Business .....	
16	Restrictions on What the Franchise May Sell .....	
17	Renewal, Termination, Transfer and Dispute Resolution .....	
18	Public Figures .....	
19	Earnings Claims .....	
20	List of Outlets .....	
21	Financial Statements .....	
22	Contracts .....	
23	Receipt .....	
Exhibits		
A.	Franchise Agreement .....	
B.	Equipment Lease .....	
C.	Lease for Premises .....	
D.	Loan Agreement .....	



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Item 1THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATESItem 1 Instructions:

i. Use the word "we," initials or one or two words to refer to the franchisor. Use different initials or a different one or two words to refer to other persons contracting with the franchisee under the franchise agreement. Except in the 23 Item titles, use these initials or the word(s) to describe these persons or entities throughout the offering circular.

ii. Define the franchisee as "you" and use this description throughout the offering circular. If the franchisee could be a corporation, partnership or other entity, disclose whether "you" includes the franchisee's owners.

iii. "Predecessor" in Item 1 means a person from whom the franchisor acquired directly or indirectly the major portion of the franchisor's assets.

iv. The disclosure regarding predecessors need only cover the 10 year period immediately before the close of the franchisor's most recent fiscal year.

v. Affiliate in Item 1 means a person (other than a natural person) controlled by, controlling or under common control with the franchisor, which is offering franchises in any line of business or is providing products or services to the franchisees of the franchisor.

DISCLOSE IN SUMMARY FORM:

A. THE NAME OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES.

B. THE NAME UNDER WHICH THE FRANCHISOR DOES OR INTENDS TO DO BUSINESS.

Item 1B Instructions:

If the franchisor does business under a name different from the name disclosed in Item 1A, state that other name. If not, state that the franchisor does not do business under another name.

C. THE PRINCIPAL BUSINESS ADDRESS OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES, AND THE FRANCHISOR'S AGENT FOR SERVICE OF PROCESS.

Item 1C Instructions:

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

i. Principal business address means "home office" in the United States, not in the state for which the offering circular was prepared. If appropriate, also disclose the location of an international "home office." The business address cannot be a post office box.

ii. In a multi-state offering in which the agent for service of process is required, the franchisor may use an exhibit or the acknowledgment of receipt to disclose this agent.

D. THE BUSINESS FORM OF THE FRANCHISORItem 1D Instructions:

Disclose the state of incorporation or business organization and the type of business organization.

E. THE FRANCHISOR'S BUSINESS AND THE FRANCHISES TO BE OFFERED IN THIS STATE.

Item 1E Instructions:Disclose the following:

i. That the franchisor sells or grants franchises;

ii. Whether the franchisor operates businesses of the type being franchised;

iii. The franchisor's other business activities;

iv. The business to be conducted by the franchisees;

v. The general market for the product or service to be offered by the franchisee. (For example, is the market developed or developing? Will the goods be sold primarily to a certain group? Are sales seasonal?)

vi. In general terms any regulations specific to the industry in which the franchise business operates. It is not necessary to include laws or regulations that apply to businesses generally;

vii. A general description of the competition.

F. THE PRIOR BUSINESS EXPERIENCE OF THE FRANCHISOR. ITS PREDECESSORS AND AFFILIATES INCLUDE:

(1) THE LENGTH OF TIME THE FRANCHISOR HAS CONDUCTED A BUSINESS OF THE TYPE TO BE OPERATED BY THE FRANCHISEE.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

(2) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE HAS CONDUCTED A BUSINESS OF THE TYPE TO BE OPERATED BY THE FRANCHISEE.

(3) THE LENGTH OF TIME THE FRANCHISOR HAS OFFERED FRANCHISES FOR THE SAME TYPE OF BUSINESS AS THAT TO BE OPERATED BY THE FRANCHISEE.

(4) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE OFFERED FRANCHISES FOR THE SAME TYPE OF BUSINESS AS THAT TO BE OPERATED BY THE FRANCHISEE.

(5) WHETHER THE FRANCHISOR HAS OFFERED FRANCHISES IN OTHER LINES OF BUSINESS, INCLUDING:

(A) A DESCRIPTION OF EACH OTHER LINE OF BUSINESS;

(B) THE NUMBER OF FRANCHISES SOLD IN EACH OTHER LINE OF BUSINESS; AND

(C) THE LENGTH OF TIME THE FRANCHISOR HAS OFFERED EACH OTHER FRANCHISE.

(6) WHETHER EACH PREDECESSOR AND AFFILIATE OFFERED FRANCHISES IN OTHER LINES OF BUSINESS, INCLUDING:

(A) A DESCRIPTION OF EACH OTHER LINE OF BUSINESS;

(B) THE NUMBER OF FRANCHISES SOLD IN EACH OTHER LINE OF BUSINESS; AND

(C) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE OFFERED EACH OTHER FRANCHISE.

Item 1F Instruction:

Limit disclosure about predecessors to the time before the franchisor acquired the predecessor's assets. Thus, under the 10 year limitation, if a franchisor acquired the assets of a predecessor 8 years ago, the disclosure about the predecessor should cover only the 2 year period before the acquisition.

Sample Answer

To simplify the language in this offering circular "Belmont" means Belmont Mufflers Inc., the franchisor. "you" means the person who buys the franchise. Belmont is a Minnesota corporation that was incorporated on September 3, 1963. Belmont does business as Belmont Muffler Shops. Our principal business address is 111 First Street, Jackson, Minnesota 55555.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Belmont's agent for service of process is disclosed in Exhibit

Belmont currently operates 12 Belmont Muffler Shops and sells pipe bending machines and mufflers to various muffler shops.

Belmont franchises the right to sell and install mufflers for the public. You must honor our guarantee to replace mufflers or exhaust pipes that wear out if the vehicle ownership has not changed. Belmont's franchisees often operate their muffler shop franchise with their service stations or tire center. Your competitors include department store service departments, service stations and other national chains of muffler shops. Exhibit is attached to this offering circular and contains a summary of the special regulations for muffler installation in your state.

During the past 5 years Belmont has operated 7 muffler shops that are similar to the franchised shops being offered. All these shops are located in urban areas, have approximately xxxxx square feet of floor space and are located on busy streets. An additional 3 muffler shops were opened in 1990. From 1968 to 1973, Belmont offered franchises for "Repair-All Transmission Shops." "Repair-All" franchises repaired and replaced motor vehicle transmissions under a marketing plan similar to the franchise in this offering circular. Belmont sold 40 of these franchises primarily in the states of Minnesota, Michigan, Wisconsin and Illinois. In 1973, Belmont sold this transmission repair company to CTF Inc.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 2

BUSINESS EXPERIENCE

LIST BY NAME AND POSITION THE DIRECTORS, TRUSTEES AND/OR GENERAL PARTNERS, THE PRINCIPAL OFFICERS AND OTHER EXECUTIVES OR SUBFRANCHISORS WHO WILL HAVE MANAGEMENT RESPONSIBILITY RELATING TO THE FRANCHISES OFFERED BY THIS OFFERING CIRCULAR. LIST ALL FRANCHISE BROKERS. STATE EACH PERSON'S PRINCIPAL OCCUPATIONS AND EMPLOYERS DURING THE PAST FIVE YEARS.

Item 2 Instructions:

- i. Principal officers include the chief executive and chief operating officer, the president, financial, franchise marketing, training and franchise operations officers.
- ii. First disclose the position and the name of the person holding it. Underline this information; then skip one line.
- iii. Disclose the beginning date and departure date for each job held in the five year period whether or not this date is within the past five years. Disclose the location of the job.
- iv. Do not disclose home addresses, home telephones, social security numbers or birth dates in this item.
- v. Disclose the required information concerning the franchise broker's directors, principal officers and executives with management responsibility to market or service the franchisees.
- vi. In a multi-state offering in which the franchisor uses a single offering circular and franchise brokers and executives with direct management responsibility to the franchisees differs from state to state, use an exhibit to refer to these personnel.

Sample Answer

President: Jane J. Doe  
From June 1978, until April, 1986, Ms. Doe was Vice President of Atlas Inc., a Houston, Texas based manufacturer of automobile wheels. In April 1986, she joined Belmont as a Director and Vice President. She was promoted to President in June 1987.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 3

LITIGATION

DISCLOSE WHETHER THE FRANCHISOR, ITS PREDECESSOR, A PERSON IDENTIFIED IN ITEM 2 OR AN AFFILIATE OFFERING FRANCHISES UNDER THE FRANCHISOR'S PRINCIPAL TRADEMARK:

- A. HAS AN ADMINISTRATIVE, CRIMINAL OR MATERIAL CIVIL ACTION PENDING AGAINST THAT PERSON ALLEGING A VIOLATION OF A FRANCHISE, ANTITRUST OR SECURITIES LAW, FRAUD, UNFAIR OR DECEPTIVE PRACTICES, OR COMPARABLE ALLEGATIONS. IN ADDITION, INCLUDE ACTIONS OTHER THAN ORDINARY ROUTINE LITIGATION INCIDENTAL TO THE BUSINESS WHICH ARE SIGNIFICANT IN THE CONTEXT OF THE NUMBER OF FRANCHISEES AND THE SIZE, NATURE OR FINANCIAL CONDITION OF THE FRANCHISE SYSTEM OR ITS BUSINESS OPERATIONS. IF SO, DISCLOSE THE NAMES OF THE PARTIES, THE FORUM, NATURE, AND CURRENT STATUS OF THE PENDING ACTION. FRANCHISOR MAY INCLUDE A SUMMARY OPINION OF COUNSEL CONCERNING THE ACTION IF A CONSENT TO USE OF THE SUMMARY OPINION IS INCLUDED AS PART OF THIS OFFERING CIRCULAR.
- B. HAS DURING THE 10 YEAR PERIOD IMMEDIATELY BEFORE THE DATE OF THE OFFERING CIRCULAR BEEN CONVICTED OF A FELONY OR PLEADED NOLO CONTENDERE TO A FELONY CHARGE; OR BEEN HELD LIABLE IN A CIVIL ACTION BY FINAL JUDGMENT OR BEEN THE SUBJECT OF A MATERIAL ACTION INVOLVING VIOLATION OF A FRANCHISE, ANTITRUST OR SECURITIES LAW, FRAUD, UNFAIR OR DECEPTIVE PRACTICES, OR COMPARABLE ALLEGATIONS. IF SO, DISCLOSE THE NAMES OF THE PARTIES, THE FORUM AND DATE OF CONVICTION OR DATE JUDGMENT WAS ENTERED, PENALTY OR DAMAGES ASSESSED AND/OR TERMS OF SETTLEMENTS.
- C. IS SUBJECT TO A CURRENTLY EFFECTIVE INJUNCTIVE OR RESTRICTIVE ORDER OR DECREE RELATING TO THE FRANCHISE OR UNDER A FEDERAL, STATE OR CANADIAN FRANCHISE, SECURITIES, ANTITRUST, TRADE REGULATION OR TRADE PRACTICE LAW RESULTING FROM A CONCLUDED OR PENDING ACTION OR PROCEEDING BROUGHT BY A PUBLIC AGENCY. IF SO, DISCLOSE THE NAME OF THE PERSON, THE PUBLIC AGENCY AND COURT, A SUMMARY OF THE ALLEGATIONS OR FACTS FOUND BY THE AGENCY OR COURT AND THE DATE, NATURE, TERMS AND CONDITIONS OF THE ORDER OR DECREE.

Item 3 Instructions:i. Definitions:

- a. For purposes of these instructions to Item 3, "franchisor" includes the franchisor, its predecessors, persons identified in Item 2 and affiliates offering franchisees under the franchisor's principal trademarks.
- b. Action: Action includes complaints, cross claims, counterclaims, and third party complaints in a judicial proceeding, and their equivalents in an administrative action or arbitration proceeding. The franchisor may disclose its counterclaims. Omit



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

actions that were dismissed by final judgment without liability of or entry of an adverse order against the franchisor.

c. Included in the definition of material is an action or an aggregate of actions if a reasonable prospective franchisee would consider it important in making a decision about the franchised business.

d. In this Item, settlement of an action does not diminish its materiality if the franchisor agrees to pay material consideration or agrees to be bound by obligations which are materially adverse to its interests.

e. "Ordinary routine litigation" means actions which ordinarily result from the business and which do not depart from the normal kinds of actions in the business.

f. "Held liable" includes a finding by final judgment in a judicial, binding arbitration or administrative proceeding that the franchisor, as a result of claims or counterclaims, must pay money or other consideration, must reduce an indebtedness by the amount of an award, cannot enforce its rights, or must take action adverse to its interests.

g. "Currently Effective": An injunctive or restrictive order or decree is "currently effective" unless it has been vacated or rescinded by a court or by the issuing public agency. An order that has expired by its own terms is not "currently effective." If the named party(s) have fully complied with an order (for example, through registration of its franchise offer), the order is not "currently effective." A party has not fully complied with an order to act or to refrain from an act (for example, to comply with the franchise law or to refrain from violating the franchise law) until the order expires by its own terms.

## ii. Civil Litigation or Injunctive or Restrictive Order:

a. Use Sample Answer 3-1 for a negative response to Item 3 if the franchisor has never been named in litigation or if the only litigation naming the franchisor is outside the scope of Item 3.

b. Disclose in the same order as the instructions below appear.

c. Title each action and state its case number or citation in parentheses. Underline the title of the action.

d. For each action state the action's initial filing date and the opposing party's name and relationship with the franchisor. Relationships include competitor, supplier, lessor, franchisee, former franchisee, or class of franchisees.

e. Summarize the legal and factual nature of each claim in the action.

f. Summarize the relief sought or obtained. Summarize conclusions of law or fact.

g. State that other than these (list number of actions) no litigation is required to be disclosed in this offering circular.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## iii. Criminal Convictions or Pleas:

a. Disclose in the same order as the following instructions appear.

b. Title each action and state its citation in parentheses. Underline the title of the action.

c. Name the person convicted or who pleaded.

d. State the crime or violation and the date of conviction.

e. Disclose the sentence or penalty imposed.

f. State that other than these (list the number of actions) actions, no litigation is required to be disclosed in this offering circular.

## Sample Answer 3-1

No litigation is required to be disclosed in this offering circular.

## Sample Answer 3-2

Doe v. Belmont Muffler Service, Inc. (cite) On March 1, 1985, our franchisee, Donald Doe, sought to enjoin us from terminating him for nonpayment of royalty fees. Doe alleged . On April 3, 1986, Doe withdrew the case when we repurchased his franchise for \$90,000 and agreed not to enforce non-compete clauses against him.

Indiana v. Belmont Muffler Service, Inc. (cite) On April 1, 1985, the Attorney General of Indiana sought to enjoin us from offering unregistered franchises and from using false income representations. The Attorney General alleged that the earnings claims were false because.... The court found that we had offered franchises, that the offers were not registered and that we had made the alleged false representations in our earnings claims. The court enjoined us from repeating those acts.

Other than these 2 actions, no litigation is required to be disclosed in this offering circular.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 4

BANKRUPTCY

STATE WHETHER THE FRANCHISOR, ITS AFFILIATE, ITS PREDECESSOR, OFFICERS OR GENERAL PARTNER DURING THE 10 YEAR PERIOD IMMEDIATELY BEFORE THE DATE OF THE OFFERING CIRCULAR (A) FILED AS DEBTOR (OR HAD FILED AGAINST IT) A PETITION TO START AN ACTION UNDER THE U.S. BANKRUPTCY CODE; (B) OBTAINED A DISCHARGE OF ITS DEBTS UNDER THE BANKRUPTCY CODE; OR (C) WAS A PRINCIPAL OFFICER OF A COMPANY OR A GENERAL PARTNER IN A PARTNERSHIP THAT EITHER FILED AS A DEBTOR (OR HAD FILED AGAINST IT) A PETITION TO START AN ACTION UNDER THE U.S. BANKRUPTCY CODE OR THAT OBTAINED A DISCHARGE OF ITS DEBTS UNDER THE BANKRUPTCY CODE DURING OR WITHIN 1 YEAR AFTER THE OFFICER OR GENERAL PARTNER OF THE FRANCHISOR HELD THIS POSITION IN THE COMPANY OR PARTNERSHIP. IF SO, DISCLOSE THE NAME OF THE PERSON OR COMPANY THAT WAS THE DEBTOR UNDER THE BANKRUPTCY CODE, THE DATE OF THE ACTION AND THE MATERIAL FACTS.

Item 4 Instructions:

- i. First, name the party that filed (or had filed against it) the petition in bankruptcy and the party's relationship to the franchisor. If the debtor in a bankruptcy proceeding was or is affiliated with the franchisor, state the relationship. If the debtor in a bankruptcy proceeding is unaffiliated with the franchisor, state the name, address and principal business of the bankrupt company.
- ii. Disclose that the entity filed bankruptcy or reorganization under the bankruptcy law and the date of the original filing.
- iii. Identify the bankruptcy court, and the case name and number. Put this information in parentheses.
- iv. State the date on which the debtor obtained a discharge in bankruptcy (including discharges under Chapter 7 and confirmation of any plans of reorganization under Chapters 11 and 13 of the U.S. Bankruptcy Code).
- v. Disclose other material facts.
- vi. Cases, actions and other proceedings under the laws of foreign nations relating to bankruptcy proceedings should be included in answers, where responses are required, as if those cases, actions and proceedings took place under the U.S. Bankruptcy Code.
- vii. If information is disclosed in this Item, at the end of the disclosure add Sample Answer 4-1 with the qualification "other than these actions."
- viii. Use Sample Answer 4-1 if no person listed in Items 1 or 2 has been

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 4

involved as a debtor in bankruptcy proceedings or any person listed in Items 1 or 2 has been involved as debtor in bankruptcy proceedings but the bankruptcy proceedings (under the U.S. Bankruptcy Code or its predecessor, the National Bankruptcy Act of 1998) were discharged more than 10 years ago. "person" includes natural persons and legal entities listed in Items 1 and 2. Person does not include anyone acting solely as the franchisor's agent for service of process.

Sample Answer 4-1

No person previously identified in Items 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

Sample Answer 4-2

On March 2, 1984, Belmont filed a petition to reorganize under Chapter 11 of the U.S. Bankruptcy Code. We were allowed to continue to operate under bankruptcy court supervision. On October 2, 1985, the bankruptcy court approved our plan of reorganization and discharged the proceedings. (US Bankruptcy Court for the District of Case B 84-301.)

Belmont's present president, Roger Rowe, was president of Acme Muffler Service, Inc., a Houston, Texas based manufacturer of exhaust systems, from July 1, 1978, through June 14, 1983. On June 6, 1983, an involuntary petition under the U.S. Bankruptcy Code was filed against Acme by its creditors. On July 14, 1983, the court entered an order of relief. Acme sold its assets and was dissolved.

Other than these 2 actions, no person previously identified in Items 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

ATTORNEY GENERAL  
NOTICE OF ADOPTED AMENDMENT(S)  
refunds under other circumstances.

ATTORNEY GENERAL  
NOTICE OF ADOPTED AMENDMENT(S)  
Item 5

INITIAL FRANCHISE FEE

DISCLOSE THE INITIAL FRANCHISE FEE AND STATE THE CONDITIONS WHEN THIS FEE IS REFUNDABLE.

Item 5 Instructions:

- i. "Initial fee" includes all fees and payments for services or goods received from the franchisor before the franchisee's business opens. "Initial fee" includes all fees and payments whether payable in lump sum or installments.
- ii. If the initial fee is not uniform, disclose the formula or the range of initial fees paid in the fiscal year before the application date and the factors that determined the amount.
- iii. Disclose installment payment terms in this Item or in Item 10.

Sample Answer 5-1

All franchisees pay a \$10,000 lump sum franchise fee when they sign the franchise agreement. Belmont will refund the entire amount if we do not approve your application within 45 days. Belmont will refund \$9,000 of this fee if you do not satisfactorily complete your 2-week training. There are no refunds under other circumstances.

Sample Answer 5-2

You must pay a franchise license fee of \$ per thousand licensed drivers who reside within your exclusive area when the franchise agreement is signed. The number of licensed drivers is determined by the latest abstract of the state agency which issues driver's licenses. The minimum fee is \$20,000. When you send your application, you must pay a non-refundable \$500 application fee. You must pay an additional \$10,000 when you receive your equipment. The balance of your fee is payable in 12 equal monthly installments of \$ . The first installment payment is due 1 year after your shop opens. Belmont charges 10% annual interest on the unpaid balance. Interest compounds daily and accrues from the date that you receive your equipment. All buyers pay this uniform fee and receive the same financing terms on the fee. If your application is not accepted, Belmont retains the \$500 for investigative costs, but you are not liable for the \$19,500 remainder. Belmont does not give



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 6

## OTHER FEES

DISCLOSE OTHER RECURRING OR ISOLATED FEES OR PAYMENTS THAT THE FRANCHISEE MUST PAY TO THE FRANCHISOR OR ITS AFFILIATES OR THAT THE FRANCHISOR OR ITS AFFILIATES IMPOSE OR COLLECT IN WHOLE OR IN PART ON BEHALF OF A THIRD PARTY. INCLUDE THE FORMULA USED TO COMPUTE THESE OTHER FEES AND PAYMENTS. IF ANY FEE IS REFUNDABLE, STATE THE CONDITIONS WHEN EACH FEE OR PAYMENT IS REFUNDABLE.

## Item 6 Instructions:

- i. First disclose fees in tabular form. Use footnotes or a "remarks" column to elaborate on the information in the table or to disclose caveats. If elaborations are lengthy, use footnotes instead of a remarks column.
- ii. Disclose the amount of each fee. A dollar amount or a percentage of gross sales is acceptable if the term gross sales is defined. If dollar amounts may increase, disclose the formula which determines the increase or the maximum amount of the increase.
- iii. Disclose the due date for recurring payments.
- iv. If all fees are payable to only the franchisor, disclose this in a footnote.
- v. If all fees are imposed and collected by the franchisor, disclose this in a footnote.
- vi. If all fees are non-refundable, state this in a footnote.
- vii. Disclose the voting power of franchisor owned outlets on any fees imposed by cooperatives. If franchisor outlets have controlling voting power, disclose a range for the fee. Disclose this information in a footnote or a "remarks" column.
- viii. The franchisor need not repeat information contained in Items 8 & 9, but the table should direct the franchisees to those items.
- ix. Examples of fees are royalty, lease negotiation, construction, remodeling, additional training, advertising, group advertising, additional assistance, audit, accounting/inventory, and transfer and renewal fee.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Sample Answer 6-1

<u>Name of fee</u>	<u>Amount</u>	<u>Due Date</u>	<u>Remarks</u>
Royalty(1)	4% of total gross sales	Payable monthly on the 10th day of the next month	Gross sales includes all revenue from the franchise location. Gross sales does not include sales tax or use tax.
Advertising(1)	2% of total gross sales	Same as Royalty fee	
Cooperative Advertising(1)	Maximum - 2% of gross sales	Established by franchisees	Franchisees may form an advertising cooperative and establish local advertising fees. Company owned stores have no vote in these cooperatives.
Additional Training(1)	\$1,000 per person	2 weeks prior to beginning of training	Belmont trains 2 persons free - See Item 11
Additional Assistance(1)	\$500 per day	30 days after billing	Belmont provides opening assistance free - See Item 11
Transfer(1)	\$1,000	Prior to consummation of transfer	Payable when you sell your franchise. No charge if franchise transferred to a corporation which you control
Audit(1)	Cost of audit plus 10% interest on	30 days after billing	Payable only if audit shows an understatement of at least 2% of gross sales for any month
Renewal Fee(1)	\$1,000	30 days before	

ATTORNEY GENERAL  
NOTICE OF ADOPTED AMENDMENT(S)

Notes:

- (1) All fees are imposed by and are payable to Belmont. All fees are non-refundable.
- (2) Interest begins from the date of the underpayment.

ATTORNEY GENERAL  
NOTICE OF ADOPTED AMENDMENT(S)

Item 7

INITIAL INVESTMENT

DISCLOSE THE FOLLOWING EXPENDITURES STATING TO WHOM THE PAYMENTS ARE MADE, WHEN PAYMENTS ARE DUE, WHETHER EACH PAYMENT IS REFUNDABLE, THE CONDITIONS WHEN EACH PAYMENT IS REFUNDABLE, AND, IF PART OF THE FRANCHISEE'S INITIAL INVESTMENT IN THE FRANCHISE MAY BE FINANCED, AN ESTIMATE OF THE LOAN REPAYMENTS, INCLUDING INTEREST:

- A. REAL PROPERTY, WHETHER PURCHASED OR LEASED. IF NEITHER ESTIMABLE NOR DESCRIBABLE BY A LOW-HIGH RANGE, DESCRIBE REQUIREMENTS, SUCH AS PROPERTY TYPE, LOCATION AND BUILDING SIZE.
- B. EQUIPMENT, FIXTURES, OTHER FIXED ASSETS, CONSTRUCTION, REMODELING, LEASEHOLD IMPROVEMENTS AND DECORATING COSTS, WHETHER PURCHASED OR LEASED.
- C. INVENTORY REQUIRED TO BEGIN OPERATION.
- D. SECURITY DEPOSITS, UTILITY DEPOSITS, BUSINESS LICENSES, OTHER PREPAID EXPENSES.
- E. ADDITIONAL FUNDS REQUIRED BY THE FRANCHISEE BEFORE OPERATIONS BEGIN AND DURING THE INITIAL PHASE OF THE FRANCHISE.
- F. OTHER PAYMENTS THAT THE FRANCHISEE MUST MAKE TO BEGIN OPERATIONS.

Item 7 Instructions:

- i. Begin disclosure by listing expenditures in tabular form. List preopening expenses first. Use footnotes to comment on expected expenditures.
- ii. Disclose payments required by the franchise agreement and all costs necessary to begin operation of the franchise and operate the franchise during the initial phase of the business. A reasonable time for the initial phase of the business is at least 3 months or a reasonable period for the industry. Include an entry titled "additional funds" and disclose the length of the initial phase in the entry.
- iii. If a specific expenditure amount is not ascertainable, use a low-high range based on the franchisor's current experience. If real property costs cannot be estimated in a low-high range, disclose the approximate size of the property and building involved. Describe the probable location of the building (for example, strip shopping center, mall, downtown, rural or highway).

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

iv. The franchisor may include additional expenditure tables to show expenditure variations caused by differences in site location, premise size, etc. Describe in general terms the factors, basis and experience that the franchisor considered or relied upon in formulating the amount required for additional funds.

v. If the franchisor or an affiliate finances part of the initial investment, state the expenditures that it will finance. State the required down payment, annual percentage rate of interest, rate factors, and the estimated loan repayments. Make the discussion brief, and refer to item 10.

vi. Total the initial investment. This total should be the same as the total investment on the offering circular cover.

## Sample Answer 7

## YOUR ESTIMATED INITIAL INVESTMENT

	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
INITIAL FRANCHISE FEE	\$20,000 (Note 1)	Lump Sum	At Signing of Franchise Agreement	Belmont, Inc.
TRAVEL AND LIVING EXPENSES WHILE TRAINING	\$2,500 to \$5,000	As Incurred	During Training	Airlines, Hotels & Restaurants
REAL ESTATE AND IMPROVEMENTS	(Note 2)	(Note 2)	(Note 2)	(Note 2)
EQUIPMENT	\$40,000 (Note 3)	Lump Sum	Prior to Opening	Belmont or vendors
SIGNS	\$2,200	Lump Sum	Prior to Opening	Abbey Sign Company
MISCELLANEOUS	\$8,000	As	As	Suppliers.

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

OPENING COSTS	(Note 4)	Incurred	Incurred	Utilities, etc.
OPENING INVENTORY	\$8,000 (Note 5)	Lump Sum	Prior to Opening	Belmont or vendors
ADVERTISING FEE-3 MONTHS	\$ 500	Monthly	Monthly	Belmont
ADDITIONAL FUNDS-3 MONTHS	\$50,000 to \$75,000 (Note 6)	As Incurred	As Incurred	Employees, Suppliers, Utilities
TOTAL	\$132,700 to \$160,200 (Note 7)	(Does not include real estate costs)		

## Notes:

- (1) See Item 5 for the conditions when this fee is partly refundable. Belmont does not finance any fee.
- (2) If you do not own adequate shop space, you must lease the land and building for the Belmont Muffler Shop. Typical locations are light industrial and commercial areas. The typical Belmont Muffler Shop has 5,000 - 8,000 square feet. Former three or four bay gasoline service stations have been converted with relative ease into Belmont Muffler Shops. Rent is estimated to be between \$12,000 - \$20,000 per year depending on factors such as size, condition and location of the leased premises.
- (3) This payment is fully refundable before equipment installation. After installation, Belmont deducts \$3,000 installation costs from your refund.
- (4) Includes security deposits, utility costs, incorporation fee.
- (5) This payment is fully refundable before Belmont delivers your inventory. After delivery Belmont deducts a 10% restocking fee from your refund.
- (6) This estimates your start up expenses. These expenses include payroll costs. These figures are estimates and Belmont cannot guarantee that you will not have additional expenses starting the business. Your costs will depend on factors such as: how much you follow Belmont's methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for our product; the prevailing wage rate; competition; and the sales level reached



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

during the initial period.

(7) Belmont relied on its 30 years of experience in the muffler business to compile these estimates. You should review these figures carefully with a business advisor before making any decision to purchase the franchise.

(8) Belmont does not offer direct or indirect financing to franchisees for any items.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 8

RESTRICTIONS ON SOURCES  
OF PRODUCTS AND SERVICES

DISCLOSE FRANCHISEE OBLIGATIONS TO PURCHASE OR LEASE FROM THE FRANCHISOR, ITS  
DESIGNEE OR FROM SUPPLIERS APPROVED BY THE FRANCHISOR OR UNDER THE FRANCHISOR'S  
SPECIFICATIONS. FOR EACH OBLIGATION DISCLOSE:

A. THE GOODS, SERVICES, SUPPLIES, FIXTURES, EQUIPMENT, INVENTORY,  
COMPUTER HARDWARE AND SOFTWARE OR REAL ESTATE RELATING TO ESTABLISHING  
OR OPERATING THE FRANCHISED BUSINESS.

B. THE MANNER IN WHICH THE FRANCHISOR ISSUES AND MODIFIES SPECIFICATIONS  
OR GRANTS AND REVOKES APPROVAL TO SUPPLIERS.

C. WHETHER, AND FOR WHAT CATEGORIES OF GOODS AND SERVICES, THE FRANCHISOR  
OR ITS AFFILIATES ARE APPROVED SUPPLIERS OR THE ONLY APPROVED  
SUPPLIERS.

D. WHETHER, AND, IF SO, THE PRECISE BASIS BY WHICH, THE FRANCHISOR OR ITS  
AFFILIATES WILL OR MAY DERIVE REVENUE OR OTHER MATERIAL CONSIDERATION  
AS A RESULT OF REQUIRED PURCHASES OR LEASES.

E. THE ESTIMATED PROPORTION OF THESE REQUIRED PURCHASES AND LEASES TO ALL  
PURCHASES AND LEASES BY THE FRANCHISEE OF GOODS AND SERVICES IN  
ESTABLISHING AND OPERATING THE FRANCHISED BUSINESS.

F. THE EXISTENCE OF PURCHASING OR DISTRIBUTION COOPERATIVES.

Item 8 Instructions:

i. An obligation includes those imposed by written agreement or by the  
franchisor's practice. The franchisor may include the reason for the  
requirement.

ii. Do not include goods or services provided as part of the franchise and  
without a separate charge (for example, a fee for initial training  
when the cost is included in the franchise fee). These fees should be  
described in Item 5. Do not include fees disclosed in response to  
Item 6.

iii. For "precise basis," disclose the franchisor's total revenues and the  
franchisor's revenues from all required purchases and leases of  
products and services. Also, disclose the percentage of the  
franchisor's total revenues represented by the franchisor's revenues  
from required purchases or leases. If the franchisor's affiliates  
also sell or lease products or services to franchisees, disclose

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

affiliate revenues from those sales or leases. These amounts should be taken from the franchisor's statement of operations (or profit and loss statement) from the most recent annual audited financial statement attached to the offering circular. If the franchisor's annual audited financial statement is not required to be attached to the offering circular or if the franchisor's affiliate sells or leases required products or services to franchisees, disclose the sources of information used in computing revenues.

iv. State how the franchisor formulates and modifies specifications and standards imposed on franchisees.

v. Disclose whether specifications and standards are issued to franchisees, subfranchisors, or approved suppliers.

vi. Describe how suppliers are evaluated, approved or disapproved. Disclose whether the franchisor's criteria for supplier approval are available to franchisees. State the fees and procedure to secure approval and how approvals are revoked. State the time period when the franchisee will receive notification of approval or disapproval.

vii. If the designated supplier will make payments to the franchisor because of transactions with franchisees, disclose the basis for the payment. Specify a percentage or a flat amount. Purchases of similar goods or services by the franchisor at a lower price than that available to franchisees is a payment.

viii. Disclose whether the franchisor negotiates purchase arrangements with suppliers (including price terms) for the benefit of franchisees.

ix. Disclose whether the franchisor provides material benefits (for example, renewal or granting additional franchises) to a franchisee based on a franchisee's use of designated or approved sources.

x. Use Sample Answer 8-1 if the response to Item 8 is negative.

Sample Answer 8-1

Belmont has no required specifications, designated suppliers, or approved suppliers for goods, services or real estate relating to your franchise business. Belmont will not derive revenue from your purchases or leases.

Sample Answer 8-2

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

You must purchase your pipe bending machine, hoist, cutting torch and suppliers under specifications in the operations manual. These specifications include standards for delivery, performance, design and appearance. You may purchase this equipment from Belmont. In the year ending December 31, 1992, Belmont's revenues from the sale of this equipment to franchisees was \$500,000, or 5% of Belmont's total revenues of \$10,000,000. The cost of equipment purchased in accordance with specifications represents 10% of your total purchases in connection with establishment of your store.

Belmont's affiliate, Muffler Supply Co., is an approved supplier of mufflers to franchisees. In the year ending December 31, 1992, the affiliate's revenues from the sale of mufflers to franchisees was \$2,000,000. The purchase of mufflers from approved sources will represent 15 to 20% of your overall purchases in operating the store. Belmont has approved other suppliers of mufflers and exhaust pipe. If you would like to purchase these items from another supplier, you may request our "Supplier Approval Criteria and Request Form." Based on the information and samples you supply to us and your payment of a \$500 fee, we will test the items supplied and review the proposed supplier's financial records, business reputation, delivery performance, credit rating and other information. Our review typically is completed in 30 days.

One of the approved suppliers of mufflers and exhaust pipes, Scottie's Pipes, Inc., pays Belmont a rebate of 1% of all franchisee purchases, which is deposited in the Belmont Advertising Fund. Another approved supplier, Michael's Clean-Air, Inc., pays Belmont 2% of all franchisee purchases of catalytic converters. This amount is used in Belmont's training center for classes in catalytic converter repair and replacement.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 9

## FRANCHISEE'S OBLIGATIONS

DISCLOSE THE PRINCIPAL OBLIGATIONS OF THE FRANCHISEE UNDER THE FRANCHISE AND OTHER AGREEMENTS AFTER THE SIGNING OF THESE AGREEMENTS.

## Item 9 Instructions:

i. Disclose obligations in tabular form. Refer to the section of the agreement that contains the obligation and any item of the offering circular that further describes the obligation.

ii. The table should contain a response to each category listed below. If the response to any category is that no obligation is imposed, the table should state that. Do not change the names of the categories. Fit all obligations within the listed categories. If other material obligations fall outside the scope of all of the prescribed categories, add additional categories as needed. The categories of franchisee obligations are:

- a. Site selection and acquisition/lease
- b. Pre-opening purchases/leases
- c. Site development and other pre-opening requirements
- d. Initial and ongoing training
- e. Opening
- f. Fees
- g. Compliance with standards and policies/Operating Manual
- h. Trademarks and proprietary information
- i. Restrictions on products/services offered
- j. Warranty and customer service requirements
- k. Territorial development and sales quotas
- l. Ongoing product/service purchases
- m. Maintenance, appearance and remodeling requirements
- n. Insurance
- o. Advertising
- p. Indemnification
- q. Owner's participation/management/staffing
- r. Records and reports
- s. Inspections and audits
- t. Transfer
- u. Renewal
- v. Post-termination obligations
- w. Non-competition covenants
- x. Dispute resolution
- y. Other (describe)

iii. Before the table, state the following:

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

## Sample Answer 9

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATION IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Obligation	Section In Agreement	Item in Offering Circular
a. Site Selection and acquisition/lease	Section 2A of Franchise Agreement	Items 6 and 11
b. Pre-opening purchases/leases	Section 3D of Franchise Agreement	Item 8
c. Site development and other pre-opening requirements	Sections 3A and 3B of Franchise Agreement	Items 6, 7, and 11
d. Initial and ongoing training	Section 5 of Franchise Agreement	Item 11
e. Opening	Section 4 of Franchise Agreement	Item 11
f. Fees	Section 6 of Franchise Agreement	Items 5 and 6
g. Compliance with standards and policies/Operating Manual	Section 8A of Franchise Agreement	Item 11
h. Trademarks and proprietary	Sections 7 and 11	Items 13 and 14



## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

<u>information</u>	<u>of Franchise Agreement</u>	
i. <u>Restrictions on products/ services offered</u>	<u>Section 12 of Franchise Agreement</u>	<u>Item 16</u>
j. <u>Warranty and customer service requirements</u>	<u>Section 8B of Franchise Agreement</u>	<u>Item 11</u>
k. <u>Territorial development and sales quotas</u>	<u>None</u>	
l. <u>Ongoing product/ service purchases</u>	<u>Section 9 of Franchise Agreement</u>	<u>Item 8</u>
m. <u>Maintenance, appearance and remodeling requirements</u>	<u>Sections 8C and 10 of Franchise Agreement</u>	<u>Item 11</u>
n. <u>Insurance</u>	<u>Section 13A of Franchise Agreement</u>	<u>Items 6 and 8</u>
o. <u>Advertising</u>	<u>Section 15 of Franchise Agreement</u>	<u>Items 6 and 11</u>
p. <u>Indemnification</u>	<u>Section 13B of Franchise Agreement</u>	<u>Item 6</u>
q. <u>Owner's participation/ management/ staffing</u>	<u>Sections 4, 5 and 14 of Franchise Agreement</u>	<u>Items 11 and 15</u>
r. <u>Records/ reports</u>	<u>Section 17A of Franchise Agreement</u>	<u>Item 6</u>
s. <u>Inspections/</u>	<u>Section 17B</u>	<u>Items 6 and 11</u>

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

<u>audits</u>	<u>of Franchise Agreement</u>	
t. <u>Transfer</u>	<u>Section 18 of Franchise Agreement</u>	<u>Item 17</u>
u. <u>Renewal</u>	<u>Section 20 of Franchise Agreement</u>	<u>Item 17</u>
v. <u>Post-termination obligations</u>	<u>Section 22 of Franchise Agreement</u>	<u>Item 17</u>
w. <u>Non-competition covenants</u>	<u>Sections 11, 18 and 22C of Franchise Agreement</u>	<u>Item 17</u>
x. <u>Dispute resolution</u>	<u>Section 24 of Franchise Agreement</u>	<u>Item 17</u>

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 10

## FINANCING

DISCLOSE THE TERMS AND CONDITIONS OF EACH FINANCING ARRANGEMENT THAT THE FRANCHISOR, ITS AGENT OR AFFILIATE OFFERS DIRECTLY OR INDIRECTLY TO THE FRANCHISEE.

## Item 10 Instructions:

- i. "Financing" includes leases and installment contracts.
- ii. Payments due within 90 days on open account financing need not be disclosed under this Item.
- iii. A written arrangement between a franchisor or its affiliate and a lender for the lender to offer financing to the franchisee or an arrangement in which a franchisor or its affiliate receives a benefit from a lender for franchisee financing is an "indirect offer of financing" and must be disclosed under this Item. The franchisor's guarantee of a note, lease or obligation of the franchisee is an "indirect offer of financing" and must be disclosed under this Item.
- iv. If financing of the initial fee is disclosed in the Item 7 disclosure, a cross reference to Item 7 is sufficient if all the disclosure which Item 10 requires is provided in Item 7.
- v. If an affiliate offers financing, identify the affiliate and its relationship to the franchisor.
- vi. The franchisor may summarize the terms of each financing arrangement in tabular form, using footnotes to entries in the chart to provide additional information required by these instructions that does not fit in the chart.
- vii. If a financing arrangement is for the establishment of the franchised business, disclose what the financing covers, including:
  - a. Initial franchise fee;
  - b. Site acquisition;
  - c. Construction or remodeling;
  - d. Equipment or fixtures; and
  - e. Opening inventory or supplies.
- viii. If the franchisor generally offers financing for the operation of the franchised business, disclose what the financing arrangement covers, including:

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- a. Inventory or supplies;
- b. Replacement equipment or fixtures; and
- c. Other continuing expenses.

## ix. Disclose the terms of each financing arrangement, including:

- a. The identity of the lender(s) providing the financing and its relationship to the franchisor (for example, affiliate);
  - b. The amount of financing offered or, if the amount depends on an actual cost that may vary, the percentage of the cost that will be financed;
  - c. The annual percentage rate of interest ("APR") charged, computed as provided by Sections 106-107 of the Consumer Protection Credit Act, 15 U.S.C. Secs. 106-107. If the APR may differ depending on when the financing is issued, disclose the APR on a specified recent date;
  - d. The number of payments or the period of repayment;
  - e. Nature of security interest required by the lender;
  - f. Whether a person other than the franchisee (for example spouse, shareholder of the franchisee) must personally guarantee the debt;
  - g. Whether the debt can be prepaid and the nature of any prepayment penalty;
  - h. The franchisee's potential liabilities upon default, including any accelerated obligation to pay the entire amount due, court costs and attorney's fees for collection, and termination of the franchise, or other cross default clauses whether directly, as a result of non-payment, or indirectly, as a result of loss of necessary facilities; and
  - i. Other material financing terms.
- x. Include specimen copies of the financing documents as an exhibit to Item 22. Cite the section and name of the document containing the financing terms. Put this information in parentheses at the end of the description of the term.
- xi. Use Sample Answer 10-1 if the franchisor does not offer financing.

## A. A WAIVER OF DEFENSES OR SIMILAR PROVISIONS IN A DOCUMENT.

## Item 10A Instructions:

- i. Disclose the terms of waivers of legal rights by the franchise under the terms of the financing arrangement (for example confession of judgment).
- ii. Describe provisions of the loan agreement that bar the franchisee from asserting a defense against the lender, the lender's assignee or the

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

franchisor.

iii. If the loan agreement does not contain the provisions in i. or ii., disclose that fact.

iv. Cite the section and name of the document containing these terms. Put this information in parentheses at the end of the description of the term.

B. THE FRANCHISOR'S PRACTICE OR ITS INTENT TO SELL, ASSIGN, OR DISCOUNT TO A THIRD PARTY ALL OR PART OF THE FINANCING ARRANGEMENT.

Item 10B Instructions:

i. Practice includes past or present practice and future intent to sell or assign franchisee financing arrangements.

ii. Disclose the assignment terms including whether the franchisor will remain primarily obligated to provide the financed goods or services.

iii. If the franchisor may sell or assign its rights under the financing agreement, disclose that the franchise may lose all its defenses against the lender as a result of the sale or assignment.

iv. Cite the section and name of the document containing these terms. Put this information in parentheses at the end of the description of the term.

v. If no disclosure is required by Instruction 10B, disclose that fact.

C. PAYMENTS TO THE FRANCHISOR OR AN AFFILIATE(S) FOR THE PLACEMENT OF FINANCING WITH THE LENDER.

Item 10C Instructions:

i. Describe the payments.

ii. If no disclosure is required by Instruction 10C i. for a financing arrangement, disclose that fact.

iii. Identify the source of the payment and the relationship of the source to the franchisor or its affiliates.

iv. Disclose the amount or the method of determining the payment.

v. Cite the section and name of the document containing these arrangements. Put this information in parentheses at the end of the description of the term.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Sample Answer 10-1

Belmont does not offer direct or indirect financing. Belmont does not guarantee your note, lease or obligation.

Sample Answer 10-2

SUMMARY OF FINANCING OFFERED									
ITEM FINANCED (SOURCE)	AMOUNT FINANCED	DOWN PAYMENT	TERM (YRS)	APR %	MONTHLY PAYMENT	PREPAY PENALTY	SECURITY REQUIRED	LIABILITY UPON DEFAULT	LOSS OF LEGAL RIGHT ON DEFAULT
INITIAL FEE (NOTE 1) (BELMONT)	\$10,000		10	18	\$	NONE	PERSONAL GUARANTEE	LOSS OF FRANCHISE-RELATED LOAN	WAIVE CO-OP'S CONSENT JUDGMENT
LAND/CONSTRUCT	NONE								
LEASED SPACE 2) (NOTE 2) (BELMONT)	\$2,000 (sec. dep.)		7-10	N/A	\$	NONE	PERSONAL GUARANTEE	LOSS OF FRANCHISE-RELATED BACK RENT-2 MOS. FRANCHISE RIGHTS-ATTY'S FEES	NONE
EQUIPMENT LEASE (NOTE 3) (USA CREDIT CORP.)	\$5,000	NONE	5	15	\$	NONE	EQUIPMENT- PERSONAL GUARANTEE	COST OF REMOVAL	LOSE ALL DEFENSES
EQUIPMENT FRANCHISE (NOTE 4) (BELMONT)	\$3,750	\$1,250 (25%)	2-7	15	\$	\$500	EQUIPMENT- PERSONAL GUARANTEE	LOSS OF FRANCHISE-ATTY'S FEES	NONE
OPENING INVENT.	NONE								
OTHER FINANCING	NONE								



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Notes:

(1) If you meet Belmont's credit standards, Belmont will finance the \$10,000 initial franchise fee over a 10-year period at an APR of 18%, using the standard form note in Exhibit A. The only security Belmont requires is a personal guarantee of the note by you and your spouse or by all the shareholders of your corporation. (Loan Agreement Section ) The note can be prepaid without penalty at any time during its 10-year term. (Loan Agreement Section ) If you do not pay on time, Belmont can call the loan and demand immediate payment of the full outstanding balance and obtain court costs and attorney's fees if a collection action is necessary. (Loan Agreement Section ) Belmont also has the right to terminate your franchise if you do not make your payments on time more than three times during the note term. (Loan Agreement Section ) You waive your rights to notice of a collection action and to assert any defenses to collection against Belmont. (Loan Agreement Section ) Belmont discounts these notes to a third party who may be immune under the law to any defenses to payment you may have against Belmont. (Loan Agreement Section )

(2) In most cases Belmont will sublease the franchised premises to you but will guarantee your lease with a third party if you have acceptable credit and that is the only way to obtain an exceptional location. (Lease Section ) The precise terms of Belmont's standard lease in Exhibit B will vary depending on the size and location of the premises, but the chart reflects a typical range of payments for Belmont's standard 6-day franchise outlet, including payment of one month's rent as a security deposit. (Lease Section ) The only other security Belmont requires is a personal guarantee of the lease by you and your spouse or by all the shareholders of your corporation. (Lease Section ) The lease can be prepaid without penalty at any time during its term. (Lease Section ) If you do not make a rent payment on time, Belmont has the right to collect the unpaid rent plus an additional two months rent, as liquidated damages. (Lease Section ) Belmont can also obtain court costs and attorney's fees if a collection action is necessary. (Lease Section ) If you are late with your rent more than three times during the lease term, Belmont has the right to terminate the lease, take over the premises, and terminate your franchise. If Belmont guarantees your lease, Belmont will require you to sign the guarantee agreement in Exhibit F. (Lease Section ) This gives Belmont the same legal rights as the sublease but requires you to give Belmont the right to approve your lease and pay the rent for you if you fail to pay on time. (Lease Section )

(3) If you want to lease the pipe bending machine and other equipment you need, Belmont has arranged an equipment lease (see Exhibit C) from USA Credit Corporation of Las Vegas, Nevada. If you choose this option,

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

you will pay \$100 a month for 60 months (5 years) at an APR of 15% based on a cash price of \$5,000, with no money down. (Equipment Lease Section ) At the end of the lease term, you may purchase the equipment with a one-time payment of \$2,500. (Equipment Lease Section ) USA Credit requires a personal guarantee from you and your spouse or from all the shareholders of your corporation and retains a security interest in the equipment. (Equipment Lease Section ) The equipment lease can be prepaid at any time, but the interest you might otherwise save will be reduced by application of the Rule of 78's for computing finance charges. (Equipment Lease Section ) If you do not make a payment on time, USA Credit can demand payment of all past due payments, remove the equipment, and charge you \$1,000 as liquidated damages. (Equipment Lease Section ) USA Credit can also recover its costs of collection, including court costs and attorney's fees. (Equipment Lease Section ) While Belmont does not know USA Credit's policies, USA Credit may discount the lease to a third party who may be immune under the law to claims or defenses you may have against USA Credit, the equipment manufacturer or Belmont. Belmont receives a referral fee of \$500 from USA Credit for every franchisee who leases equipment from it.

(4) If you prefer, Belmont will sell you the pipe bending machine and other necessary equipment on time. (Equipment Purchase Agreement Section ) Belmont requires a 25% down payment of \$1,250. (Equipment Purchase Agreement Section ) Belmont will finance the remainder over a 2-7 year period at your option at an APR of 15%. (Equipment Purchase Agreement Section ) Payments range from \$228.11 a month over 7 years to \$821.58 a month over 2 years. (Equipment Purchase Agreement Section ) Belmont's standard equipment financing note in Exhibit D must be personally guaranteed by you and your spouse or by all the shareholders of your corporation, and Belmont will retain a security interest in the equipment. (Equipment Purchase Agreement Section ) You may purchase the equipment at any time during the lease period by paying the remainder of the principal plus a \$500 prepayment penalty. (Equipment Purchase Agreement Section ) If you do not make a payment on time, Belmont can demand all overdue payments, repossess the equipment, and terminate your franchise. Belmont can also recover its costs of collection, including court costs and attorney's fees. (Equipment Purchase Agreement Section )

Except as disclosed in Note 1, Belmont does not offer financing that requires you to waive notice, confess judgment or waive a defense against Belmont or the vendor, although you may lose your defenses against Belmont and others in a collection action on a note that is sold or discounted, as disclosed in Notes 2 and 3.

Except as disclosed in Note 3, Belmont does not arrange financing from other

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Sources.

Except as disclosed in Notes 1 and 3, commercial paper from franchisees has not been and is not sold or assigned to anyone, and Belmont has no plans to do so.

Except as disclosed in Note 3, Belmont does not receive direct or indirect payments for placing financing.

Except as disclosed in Note 2, Belmont does not guarantee your obligations to third parties.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Item 11

## FRANCHISOR'S OBLIGATIONS

## DISCLOSE THE FOLLOWING:

A. THE OBLIGATIONS THAT THE FRANCHISOR WILL PERFORM BEFORE THE FRANCHISE BUSINESS OPENS. CITE BY SECTION THE PROVISIONS OF THE AGREEMENT REQUIRING PERFORMANCE.

## Item 11A Instructions:

i. Begin the disclosure by stating: "Except as listed below, (the franchisor) need not provide any assistance to you."

ii. Pre-opening obligations include assistance to:

- a. Locate a site for the franchised business and negotiate the purchase or lease of this site. State whether the franchisor generally owns the premises and leases it to the franchisees;
- b. Conform the premises to local ordinances and building codes and obtain the required permits (i.e., health, sanitation, building, driveway, utility and sign permits);
- c. Construct, remodel or decorate the premises for the franchised business;
- d. Purchase or lease equipment, signs, fixtures, opening inventory and supplies. Disclose whether the franchisor provides these items directly or merely the names of approved suppliers. Disclose whether the franchisor provides written specifications for these items. Disclose whether the franchisor delivers or installs these items. (The franchisor may cross reference Item 8 for details); and
- e. Hire and train employees.

iii. After describing the obligation, cite the section number of the agreement imposing the obligation. Put the citation in parentheses. Use this format throughout this Item.

B. THE OBLIGATIONS TO BE MET BY THE FRANCHISOR DURING THE OPERATION OF THE FRANCHISE BUSINESS.

## Item 11B Instructions:

i. Include assistance in:

- a. Products or services to be offered by the franchisee to its customers;
- b. Hiring and training of employees;



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- c. Improvements and developments in the franchised business;
- d. Pricing;
- e. Administrative, bookkeeping, accounting and inventory control procedures; and
- f. Operating problems encountered by the franchisee.

ii. For the franchisor's advertising program for the product or service offered by the franchisee:

- a. Disclose the media in which the advertising may be disseminated (for example, print, radio, or television).
- b. Disclose whether the coverage of the media is local, regional, or national in scope.
- c. Disclose the source of the advertising (for example, in-house advertising department, a national or regional advertising agency).
- d. Disclose the conditions when the franchisor permits franchisees to use their own advertising material.
- e. If there is an advertising council composed of franchisees that advises the franchisor on advertising policies, disclose:
- (1) How members of the council are selected.
  - (2) Whether the council serves in an advisory capacity only or has operational or decision-making power.
  - (3) Whether the franchisor has the power to form, change, or dissolve the advertising council.

f. If the franchisee must participate in a local or regional advertising cooperative, disclose:

- (1) How the area or membership of the cooperative is defined.
  - (2) How the franchisee's contribution to the cooperative is calculated (may reference Item 6).
  - (3) Who is responsible for administration of the cooperative (for example, franchisor, franchisees, advertising agency).
  - (4) Whether cooperatives must operate from written governing documents and whether the documents are available for review by the franchisee.
  - (5) Whether cooperatives must prepare annual or periodic financial statements and whether the statements are available for review by the franchisee.
  - (6) Whether the franchisor has the power to require cooperatives to be formed, changed, dissolved or merged.
- g. If applicable, for each advertising fund not described in above subsection (f), disclose:
- (1) Who contributes to each fund (for example, franchisees, franchisor, franchisor-owned units, outside vendors or suppliers).
  - (2) Whether the franchisor-owned units must contribute to the fund and, if so, whether it is on the same bases as franchisees.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- (3) How much the franchisee must contribute to the advertising fund(s) (may reference Item 6) and whether other franchisees are required to contribute at a different rate (it is not necessary to disclose the specific rates).
- (4) Who administers the fund(s). Whether the fund is audited and when, and whether financial statements of the fund are available for review by the franchisee.
- (5) Use of the fund(s) in the most recently concluded fiscal year, the percentages spent on production, media placement, administrative expenses, and other (with a description of what constitutes "other"). Totals should equal 100%.
- (6) Whether the franchisor or an affiliate receives payment for providing goods or services to an advertising fund.
- h. State whether the franchisor must spend any amount on advertising in the area or territory where the franchisee is located.
- i. If all advertising fees are not spent in the fiscal year in which they accrue, explain how the franchisor uses the remaining amounts. Indicate whether franchisees will receive a periodic accounting of how advertising fees are spent.
- j. Disclose the percentage of advertising funds, if any, used for advertising that is principally a solicitation for the sale of franchises.
- k. Cross reference Items 6, 8 and 9.
- iii. If the franchisor requires that franchisees buy or use electronic cash register or computer systems, provide a general description of the systems in non-technical language:
- a. Identify each hardware component and software program by brand, type and principal functions.
- (1) If the hardware component or software program is the proprietary property of the franchisor, an affiliate or a third party, state whether the franchisor, an affiliate or a third party has the contractual right or obligation to provide ongoing maintenance, repairs, upgrades or updates. Disclose the current annual cost of any optional or required maintenance and support contracts, upgrades and updates.
  - (2) If the hardware component or software program is the proprietary property of a third party, and no compatible equivalent component or program has been approved by the franchisor for use with the system to perform the same functions, identify the third party by name, business address and telephone number, and state the length of time the component or program has been in continuous use by the franchisor and its franchisees.
  - (3) If the hardware component or software program is not proprietary, identify compatible equivalent components or programs that perform the same functions and indicate



## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- whether they have been approved by the franchisor.
- b. State whether the franchisee has any contractual obligation to upgrade or update any hardware component or software program during the term of the franchise, and if so, whether there are any contractual limitations on the frequency and cost of the obligation.
- c. For each electronic cash register system or software program, describe how it will be used in the franchisee's business, and the type of business information or data that will be collected and generated. State whether the franchisor will have independent access to the information and data, and if so, whether there are any contractual limitations on the franchisor's right to access the information and data.

iv. After describing the obligation, cite the section number of the agreement imposing the obligation. Put the citation in parentheses.

v. Disclose if the franchisor is not obligated to provide or to assist the franchisee to obtain the above items or services.

vi. Do not repeat, but do cross reference disclosure made in Item 6.

vii. Disclose the table of contents of the operating manual(s) provided to the franchisee as of the franchisor's last fiscal year end or a more recent date. State the number of pages devoted to each subject and the total number of pages in the manual as of this date. Alternatively, this disclosure may be omitted if the prospective franchisee views the manual before purchase of the franchise.

C. THE METHODS USED BY THE FRANCHISOR TO SELECT THE LOCATION OF THE FRANCHISEE'S BUSINESS.

Item 11C Instructions:

- i. Disclose whether the franchisor selects the site or approves an area within which the franchisee selects a site. Disclose how and whether the franchisor must approve a franchisee selected site.
- ii. Disclose the factors which the franchisor considers in selecting or approving sites (for example, general location and neighborhood, traffic patterns, parking, size, physical characteristics of existing buildings and lease terms).
- iii. Disclose the time limit for the franchisor to locate or to approve or disapprove the site. Disclose the consequences if the franchisor and franchisee cannot agree on a site.
- iv. Disclosure made in response to Item 11A need not be repeated or cross

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

referenced in the response to Item 11C.

D. THE TYPICAL LENGTH OF TIME BETWEEN THE SIGNING OF THE FRANCHISE AGREEMENT OR THE FIRST PAYMENT OF CONSIDERATION FOR THE FRANCHISE AND THE OPENING OF THE FRANCHISEE'S BUSINESS.

Item 11D Instructions:

- i. Disclosure may be a range of times if the range is specific.
- ii. Describe the factors which may affect the time period such as ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, or delayed installation of equipment, fixtures and signs.

E. THE TRAINING PROGRAM OF THE FRANCHISOR AS OF THE FRANCHISOR'S LAST FISCAL YEAR END OR A MORE RECENT DATE INCLUDING:

- (1) The location, duration and general outline of the training program;
- (2) How often the training program will be conducted;
- (3) The experience that the instructors have with the franchisor;
- (4) Charges to be made to the franchisee and who must pay travel and living expenses of the enrollees in the training program;
- (5) If the training program is not mandatory, the percentage of new franchisees that enrolled in the training program during the preceding 12 months; and
- (6) Whether any additional training programs and/or refresher courses are required.

F. DESCRIBE THE NATURE AND EXTENT OF TRAINING UNDER THE FRANCHISOR'S TRAINING PROGRAM.

Item 11F Instructions:

- i. Use a table to state the subjects taught and the number of hours of classroom and "on the job training" devoted to each subject in the franchisor's training program. Use footnotes to explain.
- ii. For each subject disclose the training location and how often training classes are held.
- iii. Describe the location or facility where the training is held (for example, company, home, office, company owned store).
- iv. State how long after the signing of the agreement or before the opening date of the business the franchisee must complete the required training.

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

- v. Describe the nature of instruction material. Disclose the minimum experience of the instructors. Disclose only experience that is relevant to the subject taught and the franchisor's operations.
- vi. State who may and who is required to attend the training. State whether the franchisee or other persons must complete the program to the franchisor's satisfaction.
- vii. Charges for training or training materials should be disclosed in Item 5 if the obligation to pay arises before the franchise location opens.
- viii. Disclose who pays the travel and living expenses of the persons receiving the training.

Sample Answer 11

Except as disclosed below, Belmont need not provide any assistance to you.

Before you open your business, Belmont will:

- (1) Designate your exclusive territory (Franchise Agreement - paragraph 2).
- (2) Assist you in selecting a business site. Your site must be at least square feet in area, have parking spaces, and an average of cars per hour driving by. We must approve or disapprove your site within 20 days after we receive notice of the location.
- (3) Within 30 days of your signing the Franchise Agreement, assist you to find and negotiate the lease or purchase of a location for your muffler shop (Franchise Agreement - paragraph ). Your store location will be purchased or leased by you from independent third parties.
- (4) Within 60 days of your signing the Franchise Agreement, provide written specifications for store construction or remodeling and for all required and replacement equipment, inventory and supplies (Franchise Agreement - paragraph ). See Item 8 of this offering circular.
- (5) Within 60 days of your signing the Franchise Agreement, provide blueprints for your store construction or remodeling and obtain

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

health, sanitation, building, utility and sign permits for your premises. You pay for the construction or remodeling (Franchise Agreement - paragraph ).

- (6) Within 60 days of your signing the Franchise Agreement, train you and one other person as follows:

SUBJECT	TIME PERIOD	INSTRUCTIONAL MATERIAL	NUMBER OF CLASSROOM TRAININGS	NUMBER OF ON THE JOB TRAININGS	INSTRUCTOR

Belmont does not charge for this training or service, but you must pay the travel and living expenses for you and your employees. All training occurs at Belmont's Jackson, Minnesota headquarters.

During the operation of the franchised business, Belmont will:

- (1) Develop new products and methods and provide you with information about developments (Franchise Agreement - paragraph ).
- (2) Loan you a copy of our operations manual which contains mandatory and suggested specifications, standards and procedures. This manual is confidential and remains our property. Belmont will modify this manual, but the modification will not alter your status and rights under the Franchise Agreement (Franchise Agreement - paragraph ). The table of contents is as follows:

Each week for the first 90 days after you open your shop, Belmont will telephone to discuss your operational problems.

Belmont will hold annual conferences to discuss sales techniques, personnel training, bookkeeping, accounting, inventory control, performance standards, advertising program and merchandising procedures. There is no conference fee, but you must pay all your travel and living expenses. These elective conferences are held at our Jackson, Minnesota headquarters or at a location chosen by a majority vote of all franchisees.

Belmont provides advertising materials and services to you through a national advertising fund (the "National Fund"). Materials provided by the National Fund to all franchisees include video and audio tapes, mats, posters, banners and miscellaneous point-of-sale items. You will receive one sample of each at no charge. If you want additional copies you must pay duplication costs.



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

You may develop advertising materials for your own use, at your own cost. Belmont must approve the advertising materials in advance and in writing.

Belmont occasionally provides for placement of advertising on behalf of the entire Belmont system, including franchisees. However, most placement is done on a local basis, typically by local advertising agencies hired by individual franchisees or advertising cooperatives. Belmont reserves the right to use advertising fees from the Belmont system to place advertising in national media (including broadcast, print or other media) in the future. In the past Belmont has used an outside advertising agency to create and place advertising. Neither Belmont nor its affiliate receives payment from the National Fund. Advertising funds are used to promote the product sold by the franchisee and are not used to sell additional franchises.

The National Fund is a nonprofit corporation which collects advertising fees from all franchisees. Each franchisor owned store of Belmont contributes to the National Fund on the same basis as franchisees. All payments to the National Fund must be spent on advertising, promotion and marketing of goods and services provided by Belmont Muffler Shops. You must contribute the amounts described in Item 6, under the heading "Advertising Fees and Expenses."

The National Fund is administered by Belmont's accounting and marketing personnel under the direction of the Advertising Council. An annual audited financial statement of the National Fund is available to any franchisee upon request. During the last fiscal year of the National Fund (ending on December 31, 1990), the National Fund spent 39% of its income on the production of advertisements and other promotional materials, 36% for media placements, 18% for general and administrative expenses, and 7% for other expenses (the purchase of glassware given to customers of Belmont shops as part of a promotional campaign).

The Advertising Council acts as the board of directors of the National Fund. The Advertising Council has 8 members: the President, Treasurer, Vice President-Marketing, and Vice President-Operations of Belmont; and 4 franchisee representatives who are elected by the governing board of the Belmont Franchise Association.

Once your shop opens, you must participate in the local advertising cooperative established in the Area of Dominant Influence (ADI) where your store is located. The amount of your contribution to the local advertising cooperative is described in Item 6 under the heading "Advertising Fees and Expenses."

Each local advertising cooperative must adopt written governing documents. A copy of the governing documents of the cooperative (if one has been established) for your ADI is available upon request. Each cooperative may determine its own voting procedures; however, each company-owned Belmont Shop will be entitled to one vote in any local advertising cooperative. The members and their elected officers are responsible for administration of the

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

cooperative. Advertising cooperatives must prepare quarterly and annual financial statements. The annual financial statement must be prepared by an independent CPA and be made available to all franchisees in that advertising cooperative.

You select your business site within your exclusive area subject to our approval. Belmont assists in site selection by telling you the number of new car registrations, population density, traffic patterns and proximity of the proposed site to other Belmont Muffler Shops.

Franchisees typically open their shops 4 to 7 months after they sign a franchise agreement. The factors that affect this time are the ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, and delayed installation of equipment fixtures and signs.



## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Item 12  
TERRITORY

DESCRIBE ANY EXCLUSIVE TERRITORY GRANTED THE FRANCHISEE. CONCERNING THE FRANCHISEE'S LOCATION (WITH OR WITHOUT EXCLUSIVE TERRITORY), DISCLOSE WHETHER:

A. THE FRANCHISOR HAS ESTABLISHED OR MAY ESTABLISH ANOTHER FRANCHISEE WHO MAY ALSO USE THE FRANCHISOR'S TRADEMARK.

B. THE FRANCHISOR HAS ESTABLISHED OR MAY ESTABLISH A COMPANY-OWNED OUTLET OR OTHER CHANNELS OF DISTRIBUTION USING THE FRANCHISOR'S TRADEMARK.

## Item 12 Instructions:

i. As used in Item 12, trademark includes name, trademarks, logos and other commercial symbols.

ii. If appropriate, describe the minimum area granted to the franchisee. The franchisor may use an area encompassed within a specific radius, a distance sufficient to encompass a specified population or another specific designation.

iii. State whether the franchise is granted for a specific location or a location to be approved by the franchisor.

iv. If appropriate, state the conditions under which the franchisor will approve the relocation of the franchised business or the establishment of additional franchised outlets.

v. Describe restrictions on the franchisor regarding operating company-owned stores or on granting franchised outlets for a similar or competitive business within the defined area.

vi. Describe restrictions on franchisees from soliciting or accepting orders outside of their defined territories.

vii. Describe restrictions on the franchisor from soliciting or accepting order inside the franchisee's defined territory. State compensation that the franchisor must pay for soliciting or accepting orders inside the franchisee's defined territories.

viii. Describe franchisee options, rights of first refusal or similar rights to acquire additional franchises within the territory or contiguous territories.

ix. If the franchisor does not grant territorial rights, use Sample Answer 12-1.

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

C. THE FRANCHISOR OR ITS AFFILIATE HAS ESTABLISHED OR MAY ESTABLISH OTHER FRANCHISES OR COMPANY-OWNED OUTLETS OR ANOTHER CHANNEL OF DISTRIBUTION SELLING OR LEASING SIMILAR PRODUCTS OR SERVICES UNDER A DIFFERENT TRADEMARK.

## Item 12C Instructions:

i. "Similar products and services" includes competing, interchangeable or substitute products but not products or services which are not part of the same product or service market.

ii. If the franchisor or an affiliate operates, franchises or has present plans to operate or franchise a business under a different trademark and that business sells goods or services similar to those to be offered by the franchisee, describe:

- a. The similar goods and services;
- b. The trade names and trademarks;
- c. Whether outlets will be franchisor owned or operated;
- d. Whether the franchisor or its franchisees who use the different trademark will solicit or accept orders within the franchisee's territory;
- e. A timetable for the plan;
- f. How the franchisor will resolve conflicts between the franchisor and the franchisees and between the franchisees of each system regarding territory, customers or franchisor support; and
- g. If appropriate, disclose the principal business address of the franchisor's similar operating business. If it is the same as the franchisor's principal business address disclosed in Item 1, disclose whether the franchisor maintains (or plans to maintain) physically separate offices and training facilities for the similar competing business.

D. CONTINUATION OF THE FRANCHISEE'S TERRITORIAL EXCLUSIVITY DEPENDS ON ACHIEVEMENT OF A CERTAIN SALES VOLUME, MARKET PENETRATION OR OTHER CONTINGENCY AND UNDER WHAT CIRCUMSTANCES THE FRANCHISEE'S TERRITORY MAY BE ALTERED.

## Item 12D Instructions:

i. Disclose conditions for the franchisee's keeping its territorial rights (for example, sales quotas or the opening of additional business outlets). Specify the quotas or conditions and the franchisor's rights if the franchisee fails to meet the requirements.

ii. Disclose other circumstances that permit the franchisor to modify the franchisee's territorial rights (for example, a population increase in the territory giving the franchisor the right to grant an additional franchise within the area). Disclose the effect on the franchisee's rights.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Sample Answer 12-1

You will not receive an exclusive territory. Belmont may establish other franchised or company owned outlets that may compete with your location.

Sample Answer 12-2

You will receive an exclusive territory with a minimum population of 50,000 people. You will operate from one location and must receive Belmont's permission before relocating. Belmont will not operate stores or grant franchises for a similar or competitive business within your area. Except when advertising cooperatively with appropriate franchisees, neither Belmont nor you can advertise or solicit orders within another franchisee's territory. You and Belmont can accept orders from outside your territory without special payment.

You do not receive the right to acquire additional franchises within your area. There is no minimum sales quota. You maintain rights to your area even though the population increases.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Item 13TRADEMARKSDISCLOSE THE PRINCIPAL TRADEMARKS TO BE LICENSED TO THE FRANCHISEE INCLUDING:Item 13 Instructions:

- i. As used in Item 13, "principal trademarks" means the primary trademarks, service marks, names, logos and symbols to be used by the franchisee to identify the franchised business. It does not include every trademark owned by a franchisor.
- ii. The franchisor may limit Item 13 disclosure to information that is relevant to the state where the franchised business will be located. The franchisor may include all states to eliminate the need for multiple disclosure in Item 13 but must amend its offering circular to reflect any material change in the list.

A. WHETHER THE PRINCIPAL TRADEMARKS ARE REGISTERED WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE. FOR EACH REGISTRATION STATE THE REGISTRATION DATE AND NUMBER AND WHETHER THE REGISTRATION IS ON THE PRINCIPAL OR SUPPLEMENTAL REGISTER.

Item 13A Instructions:

- i. Identify each principal trademark which the franchisee may use. The franchisor may reproduce these trademarks in this Item.
- ii. State the date and identification number of each trademark registration or registration application listed. State whether the franchisor has filed all required affidavits. State whether any registration has been renewed.
- iii. State whether the principal trademarks are registered on the principal or supplemental register of the U.S. Patent and Trademark Office, and if not, whether an "intent to use" application or an application based on actual use has been filed with the U.S. Patent and Trademark Office. If the principal trademark to be used by the franchisee is not registered on the Principal Register of the U.S. Patent and Trademark Office, state:

By not having a principal federal registration for (name or description of symbol), (name of franchisor) does not have certain presumptive legal rights granted by a registration.

B. DISCLOSE CURRENTLY EFFECTIVE MATERIAL DETERMINATIONS OF THE PATENT AND TRADEMARK OFFICE, TRADEMARK TRAIL AND APPEAL BOARD, THE TRADEMARK ADMINISTRATOR

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

OF THIS STATE OR ANY COURT; PENDING INFRINGEMENT, OPPOSITION OR CANCELLATION;  
AND PENDING MATERIAL LITIGATION INVOLVING THE PRINCIPAL TRADEMARKS.

## Item 13B Instructions:

i. Litigation or an action is material if it could significantly affect the ownership or use of a trademark listed under Item 13. Describe how the determination affects the ownership, use or licensing. Describe any decided infringement, cancellation or opposition proceedings. Include infringement, opposition or cancellation proceedings in which the franchisor unsuccessfully sought to prevent registration of a trademark in order to protect a trademark licensed by the franchisor.

ii. For pending material federal or state litigation regarding the franchisor's use or ownership rights in a trademark disclose:

- a. The forum and case number;
- b. The nature of claims made opposing the franchisor's use or by the franchisor opposing another person's use; and
- c. Any effective court or administrative agency ruling concerning the matter.

iii. Do not repeat disclosure made in response to Item 13A.

iv. The franchisor need not disclose historical challenges to registrations of trademarks listed in Item 13 that were resolved in the franchisor's favor.

v. The franchisor may include an attorney's opinion relative to the merits of litigation or of an action if the attorney issuing the opinion consents to its use. The text of the disclosure may include a summary of the opinion if the full opinion is attached and the attorney issuing the opinion consents to the use of the summary.

C. DISCLOSE AGREEMENTS CURRENTLY IN EFFECT WHICH SIGNIFICANTLY LIMIT THE RIGHTS OF THE FRANCHISOR TO USE OR LICENSE THE USE OF TRADEMARKS LISTED IN ITEM 13 IN A MANNER MATERIAL TO THE FRANCHISE.

## Item 13C Instructions:

For each agreement disclose:

- i. The manner and extent of the limitation or grant;
- ii. The agreement's duration;
- iii. The parties to the agreement;

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

iv. The circumstances under which the agreement may be cancelled or modified; and

v. All other material terms.

D. WHETHER THE FRANCHISOR MUST PROTECT THE FRANCHISEE'S RIGHT TO USE THE PRINCIPAL TRADEMARKS LISTED IN ITEM 13, AND MUST PROTECT THE FRANCHISEE AGAINST CLAIMS OF INFRINGEMENT OR UNFAIR COMPETITION ARISING OUT OF THE FRANCHISEE'S USE OF THEM.

## Item 13D Instructions:

i. Disclose the franchisee's obligation to notify the franchisor of the use of, or claims of rights to, a trademark identical to, or confusingly similar to, a trademark licensed to the franchisee.

ii. State whether the franchise agreement requires the franchisor to take affirmative action when notified of these uses or claims. Identify who has the right to control administrative proceedings or litigation.

iii. State whether the franchise agreement requires the franchisor to participate in the franchisee's defense and/or indemnify the franchisee for expenses or damages if the franchisee is a party to an administrative or judicial proceeding involving a trademark licensed by the franchisor to the franchisee, or if the proceeding is resolved unfavorably to the franchisee.

iv. Disclose the franchisee's rights under the franchise if the franchisor requires the franchisee to modify or discontinue the use of a trademark as a result of a proceeding or settlement.

E. WHETHER THE FRANCHISOR ACTUALLY KNOWS OF EITHER SUPERIOR PRIOR RIGHTS OR INFRINGING USES THAT COULD MATERIALLY AFFECT THE FRANCHISEE'S USE OF THE PRINCIPAL TRADEMARKS IN THIS STATE OR THE STATE IN WHICH THE FRANCHISED BUSINESS IS TO BE LOCATED.

## Item 13E Instructions:

For each use of a principal trademark that the franchisor believes constitutes an infringement that could materially affect the franchisee's use of a trademark, state:

- i. The location(s) where the infringement is occurring;
- ii. To the extent known, the length of time of the infringement; and
- iii. Action taken by the franchisor.



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

If the franchisor knows of a use of a trademark by another in a geographic area relevant to the franchisee which is or is likely to be based on a claim of superior prior rights to the franchisor's, state the nature of the use by the other person and the place or area where it is occurring.

## Sample Answer 13

Belmont grants you the right to operate a shop under the name Belmont Muffler Shop. You may also use our other current or future trademarks to operate your shop. By trademark Belmont means trade names, trademarks, service marks and logos used to identify your shop. Belmont registered the below trademark on the United States Patent and Trademark Office principal register:

You must follow our rules when you use these marks. You cannot use a name or mark as part of a corporate name or with modifying words, designs or symbols except for those which Belmont licenses to you. You may not use Belmont's registered name in connection with the sale of an unauthorized product or service or in a manner not authorized in writing by Belmont.

On June 4, 1973, the United States Patent and Trademark Office rejected Belmont's application to register the mark "Super Mufflers" because the mark was found to be confusingly similar to a registered mark. Belmont's inability to register this mark on a federal level permits others to establish rights to use the mark. This use will not be in areas where our franchisees are operating, or advertising under the mark, or in the natural zone of expansion for Belmont's shops. In addition, these users must act in good faith and without actual knowledge of Belmont's prior use of the mark. However, if others establish rights to use Belmont's mark, Belmont may not be able to expand into these areas using the mark.

No agreements limit Belmont's right to use or license the use of Belmont's trademarks.

You must notify Belmont immediately when you learn about an infringement of, or challenge to, your use of our trademark. Belmont will take the action we think appropriate. While Belmont is not required to defend you against a claim against your use of our trademark, Belmont will reimburse you for your liability and reasonable costs in connection with defending Belmont's trademark. To receive reimbursement you must have notified Belmont immediately when you learned about the infringement or challenge.

You must modify or discontinue the use of a trademark if Belmont modifies or

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

discontinues it. If this happens, Belmont will reimburse you for your tangible costs of compliance (for example, changing signs). You must not directly or indirectly contest our right to our trademarks, trade secrets or business techniques that are part of our business.

Belmont does not know of any infringing uses that could materially affect your use of Belmont's trademark.

or

John E. Jones, 4231 Main Street, Reno, Nevada is currently doing business as Belmont Muffler Shoppe at 4231 Main Street, Reno, Nevada. We believe that this is an infringing use of our federally registered trademark "Belmont Muffler Shop," and we have filed an action to enjoin Mr. Jones and to recover damages. If the court holds that Mr. Jones' use is not infringing, Belmont may not be able to use Belmont's trademark in Mr. Jones' immediate area. (Belmont Muffler Shop v. Belmont Muffler Shoppe--cite)

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 14

PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

IF THE FRANCHISOR OWNS RIGHTS IN PATENTS OR COPYRIGHTS THAT ARE MATERIAL TO THE FRANCHISE, DESCRIBE THESE PATENTS AND COPYRIGHTS AND THEIR RELATIONSHIP TO THE FRANCHISE. INCLUDE THEIR DURATION AND WHETHER THE FRANCHISOR CAN AND INTENDS TO RENEW THE COPYRIGHTS. TO THE EXTENT RELEVANT, DISCLOSE THE INFORMATION REQUIRED BY ITEM 13 CONCERNING THESE PATENTS AND COPYRIGHTS. IF THE FRANCHISOR CLAIMS PROPRIETARY RIGHTS IN CONFIDENTIAL INFORMATION OR TRADE SECRETS, DISCLOSE THEIR GENERAL SUBJECT MATTER AND THE TERMS AND CONDITIONS FOR USE BY THE FRANCHISEE.

Item 14 Instructions:

- i. State the patent number, issue date and title for each patent. State the serial number, filing date and title of each patent application. Describe the type of patent or patent application (for example mechanical, process, or design). State the registration number and date of each copyright.
- ii. Describe the relationship of the patent, patent application or copyright to the franchised business.
- iii. Describe any current determination of the Patent and Trademark Office, Copyright Office (Library of Congress) or court regarding the patent or copyright. Include the forum, case number and effect on the franchised business.
- iv. State the forum, case number, claims asserted, issues involved and effective determinations for any proceedings pending in the Patent and Trademark Office or the Court of Appeals for the Federal Circuit.
- v. If counsel consents, the franchisor may include a counsel's opinion or a summary of the opinion about patent or copyright issues discussed in this item.
- vi. If an agreement limits the use of the patent, patent application or copyright, state the parties to and duration of the agreement, the extent to which the franchisee may be affected by the agreement, and other material terms of the agreement.
- vii. Disclose the franchisor's obligation to protect the patent, patent application or copyright. State:
  - a. Whether franchisee must notify the franchisor of claims or infringements or if the action is discretionary.
  - b. Whether the franchisor must take affirmative action when notified

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- of infringement or if the action is discretionary.
- c. Who has the right to control litigation.
- d. Whether the franchisor must participate in the defense of a franchisee or indemnify the franchisee for expenses or damages in a proceeding involving a patent, patent application or copyright licensed to the franchisee.
- e. Requirements that the franchisee modify or discontinue use of the subject matter covered by the patent or copyright.
- f. Franchisee's rights if the franchisor requires the franchisee to modify or discontinue the use of the subject matter covered by the patent or copyright.
- viii. If the franchisor actually knows of an infringement that could materially affect the franchisee, state:
  - a. The nature of the infringement.
  - b. The location(s) where the infringement is occurring.
  - c. The length of time of the infringement.
  - d. Action taken or anticipated by the franchisor.
- ix. State whether the franchisor intends to renew the copyright when the registration expires.
- x. Discuss in general terms other proprietary information communicated to the franchisee (for example, whether there is a formula or recipe considered to be a trade secret).
- xi. Use Sample Answer 14-1 if no patents or copyrights are material to the franchise.

Sample Answer 14-1

No patents or copyrights are material to the franchise.

Sample Answer 14-2

You do not receive the right to use an item covered by a patent or copyright, but you can use the proprietary information in Belmont's Operations Manual. The Operations Manual is described in Item 11. Although Belmont has not filed an application for a copyright registration for the Operations Manual, it claims a copyright and the information is proprietary. Item 11 describes limitations on the use of this manual by you and your employees.

You must also promptly tell us when you learn about unauthorized use of this

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

proprietary information. Belmont is not obligated to take any action but will respond to this information as we think appropriate. Belmont will indemnify you for losses brought by a third party concerning your use of this information.

## Sample Answer 14-3

U.S. Patent 3999442 was issued on December 14, 1980. It describes a process for exhaust system installation. The process describes the steps in making a straight length of exhaust pipe, bending this pipe, coating the inside and outside of this pipe with our Pipe Protector and installing the exhaust pipe on a motor vehicle. You will use equipment utilizing this process.

On December 15, 1970, Belmont obtained a copyright registration for its Operations Manual under Registration A41139. Amendments to the manual were registered on January 7, 1983 (Reg. A521,371) and June 6, 1974 (Reg. A 541,333). Belmont intends to renew these copyrights. Item 11 of this Offering Circular describes the Operations Manual and the manner in which you are permitted to use it.

Belmont's right to use or license these patents and copyrighted items is not materially limited by any agreement or known infringing use.

You must tell us immediately if you learn about an infringement or challenge to our use of these patents or copyrights. Belmont will take the action that Belmont thinks appropriate. You must also agree not to contest Belmont's interest in these or our other trade secrets.

If Belmont decides to add, modify or discontinue the use of an item or process covered by a patent or copyright, you must also do so. Belmont's sole obligation is to reimburse you for the tangible cost of complying with its obligation.

Although Belmont is not obligated to defend your use of these items or processes, Belmont will reimburse you for damages and reasonable costs incurred in litigation about them.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 15

## OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

DISCLOSE THE FRANCHISEE'S OBLIGATION TO PARTICIPATE PERSONALLY IN THE DIRECT OPERATION OF THE FRANCHISE BUSINESS AND WHETHER THE FRANCHISOR RECOMMENDS PARTICIPATION.

## Item 15 Instructions:

- i. Include obligations arising from written agreement (including personal guaranty, confidentiality agreement or noncompetition agreement) or from the franchisor's practice.
- ii. If personal "on premises" supervision is not required:
  - a. If the franchisee is an individual, state whether the franchisor recommends "on premises" supervision by the franchisee;
  - b. State limitations on whom the franchisee can hire as an on premises supervisor;
  - c. Whether this "on premises" supervisor must successfully complete the franchisor's training program; and
  - d. If the franchisee is a business entity, state the amount of equity interest that the "on premises" supervisor must have in the franchise.
- iii. Disclose the restrictions which the franchisee must place on its manager (for example, maintain trade secrets, non-competition).
- iv. The franchisor may reference Items 14 and 17 in its answer.

## Sample Answer 15-1

If you are an individual, you must directly supervise the franchised business on its premises. If you are a corporation, the direct, on-site supervision must be done by a person who owns at least 1/3 of the corporate equity.

## Sample Answer 15-2

Belmont does not require that you personally supervise the franchised business. The business must be directly supervised "on premises" by a manager who has successfully completed Belmont's training program. The on premises manager cannot have an interest or business relationship with any of Belmont's business



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

competitors. The manager need not have an ownership interest in a corporate or partnership franchise. The manager must sign a written agreement to maintain confidentiality of the trade secrets described in Item 14 and to conform with the covenants not to compete described in Item 17.

Each individual who owns a 5% or greater interest in the franchisee entity must sign an agreement (Exhibit ) assuming and agreeing to discharge all obligations of the "franchisee" under the Franchise Agreement.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 16

RESTRICTIONS ON  
WHAT THE FRANCHISEE MAY SELL

DISCLOSE RESTRICTIONS OR CONDITIONS IMPOSED BY THE FRANCHISOR ON THE GOODS OR SERVICES THAT THE FRANCHISEE MAY SELL OR THAT LIMIT THE CUSTOMERS TO WHOM THE FRANCHISEE MAY SELL GOODS OR SERVICES.

## Item 16 Instructions:

- i. Describe the franchisee's obligation to sell only goods and services approved by the franchisor.
- ii. Disclose any franchisee obligation to sell all goods and services authorized by the franchisor. Disclose whether the franchisor has the right to change the types of authorized goods and service and whether there are limits on the franchisor's right to make changes.
- iii. If the franchisee is restricted regarding customers, disclose the restrictions.
- iv. The applicant may cross reference disclosures made in Items 8, 9, and 12.
- v. Use Sample Answer 16-1 for a negative response.

## Sample Answer 16-1

Belmont does not restrict the type of goods or services that you may offer.

## Sample Answer 16-2

Belmont requires you to offer and sell only those goods and services that Belmont has approved (see Item 9).

You must offer all goods and services that Belmont designates as required for all franchisees. These required services are muffler inspection, repair and replacement. Parts, supplies, and equipment used in your Belmont Muffler business must be approved by Belmont (see Item 8).

Belmont has the right to add additional authorized services that the franchisee is required to offer. There are no limits on Belmont's right to do so except

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

that the investment required of a franchisee (for equipment, supplies and initial inventory) will not exceed \$5,000 per year.

Belmont also designates some services as optional for qualified franchisees. Current optional services are brake inspection, repair and replacement, tire rotation, wheel balancing, and alignment and rustproofing. To offer optional goods or services, you must be in substantial compliance with all material obligations under your Franchise Agreement. In addition, Belmont may require you to comply with other requirements (such as training, marketing, insurance) before Belmont will allow you to offer certain optional services.

As long as you meet your annual agreed sales quotas (see Item 12), Belmont will not restrict you from soliciting any customers, no matter who they are or where they are located. If you do not meet your annual sales quota, Belmont may deny you the right to receive any further fleet business referrals from Belmont and may either keep the fleet business referrals for itself or give them to another franchisee. Failure to meet your annual sales quota is a default under your Franchise Agreement and grounds for termination of your franchise (see Item 17).

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 17

RENEWAL, TERMINATION, TRANSFER  
AND DISPUTE RESOLUTION

SUMMARIZE THE PROVISIONS OF THE FRANCHISE AND OTHER AGREEMENTS DEALING WITH TERMINATION, RENEWAL, TRANSFER, DISPUTE RESOLUTION AND OTHER IMPORTANT ASPECTS OF THE FRANCHISE RELATIONSHIP.

## Item 17 Instructions:

i. Begin Item 17 disclosure with the following statement:

This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this offering circular.

ii. Respond in tabular form. Refer to the section of the agreement which covers each subject.

iii. Use a separate table for any other significant franchise-related agreement. If a provision in any other agreement affects the provisions of the franchise or franchise-related agreements disclosed in this Item (for example, the term of the franchise will be equal to the term of the lease), disclose that provision in the applicable category in the table.

iv. The table should contain a "summary" column to summarize briefly the disclosed provision. The summary is intended to provide a concise overview of the provision in no more than a few words or a sentence. Do not specify in detail all matters covered by a provision.

v. The table should respond to each category listed below. Do not change the names of the categories. List all contractual provisions relevant to each category in the table. If the response to any category is that the agreement does not contain the relevant provision, the table should so state. If the agreement is silent concerning a category but the franchisor unilaterally offers to provide certain benefits or protections to franchisees as a matter of policy, a footnote should describe this policy and state whether the policy is subject to change. The categories are:

- a. Length of the term of the franchise
- b. Renewal or extension of the term
- c. Requirements for franchisee to renew or extend
- d. Termination by franchisee
- e. Termination by franchisor without cause
- f. Termination by franchisor with "cause"

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- g. "Cause" defined - curable defaults  
 h. "Cause" defined - defaults which cannot be cured  
 i. Franchisee's obligations on termination/non-renewal  
 j. Assignment of contract by franchisor  
 k. "Transfer" by franchisee - denied  
 l. Franchisor approval of transfer by franchisee  
 m. Conditions for franchisor approval of transfer  
 n. Franchisor's right of first refusal to acquire franchisee's business  
 o. Franchisor's option to purchase franchisee's business  
 p. Death or disability of franchisee  
 q. Non-competition covenants during the term of the franchise  
 r. Non-competition covenants after the franchise is terminated or expires  
 s. Modification of the agreement  
 t. Integration/merger clause  
 u. Dispute resolution by arbitration or mediation  
 v. Choice of forum  
 w. Choice of law

## Sample Answer 17

This table lists important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this offering circular.

Provision	Section in Franchise Agreement	Summary
a. Term of the franchise	Section 1 (also Section 1 of Lease, Exhibit F)	Term is equal to lease term - 10 years
b. Renewal or extension	Section 20	If you are in good standing you can add additional term equal to renewal term of least (10 years max.)
c. Requirements for you to renew or extend	Section 20	Sign new agreement, pay fee, remodel and sign release

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- d. Termination by you None  
 e. Termination by Belmont without cause None  
 f. Termination by Section 21  
 Belmont can terminate only if franchisee defaults  
 You have 30 days to cure: non-payment of fees, sanitation problems, non-submission of reports and any other default not listed in Sec. 21A  
 g. "Cause" defined - Section 21B  
 You have 30 days to cure: non-payment of fees, sanitation problems, non-submission of reports and any other default not listed in Sec. 21A  
 h. "Cause" defined - defaults which cannot Section 22  
 Noncurable defaults: conviction of felony, repeated defaults even if cured, abandonment, trademark misuse and unapproved transfers  
 i. Your obligations on termination/nonrenewal Section 22  
 Obligations include complete identification and payment of amounts due (also see r, below)  
 j. Assignment of contract by Belmont Section 18  
 No restriction on Belmont's right to assign  
 k. "Transfer" by you - definition Section 19A  
 Includes transfer of contract or assets or ownership change  
 l. Belmont's approval of transfer by franchisee Section 19B  
 Belmont has the right to approve all transfers but will not unreasonably withhold approval  
 m. Conditions for Belmont approval of Section 19C  
 New franchisee qualifies, transfer fee is paid, purchase agreement approved, training arranged, release signed by you



## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

and current agreement signed by new franchisee (also see I, below)

n. Belmont's right of first refusal to acquire your business

Section 19F

Belmont can match any offer for the franchisee's business

o. Belmont's option to purchase your business

None, but see policy described in Note 1

p. Your death or disability

Section 19D

Franchise must be assigned by estate to approved buyer in 6 months

q. Non-competition covenants during the

Section 11

No involvement in competing business anywhere in U.S.

r. Non-competition covenants after the

Section 19C and 22C

No competing business for 2 years within 20 miles of another Belmont franchise (including after assignment)

s. Modification of the agreement

Section 8A

No modifications generally but Operating Manual subject to change

t. Integration/merger clause

Section 29

Only the terms of the franchise agreement are binding (subject to state law). Any other promises may not be enforceable

u. Dispute resolution by arbitration or

Section 24

Except for certain claims, all disputes must be arbitrated in (state)

v. Choice of forum

Section 27

Litigation must be in (state)

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

w. Choice of law

Section 28

(state) law applies

Note:

(1) Franchisor is not obligated by the Agreement to do so, but, if the franchise is terminated, franchisor's policy is to buy back inventory at fair market value. This policy is subject to change at any time.

These states have statutes which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise: ARKANSAS (Stat. Section 70-807), CALIFORNIA (Bus. & Prof. Code Sections 20000-20043), CONNECTICUT (Gen. Stat. Section 42-133e et seq.), DELAWARE (Code, Tit.), HAWAII (Rev. Stat. Section 482E-1), ILLINOIS (815 Compiled Stat. 705/19 and 20), INDIANA (Stat. Section 23-2-2.7), IOWA (Code Sections 523H.1-523H.17), MICHIGAN (Stat. Section 19.854(27)), MINNESOTA (Stat. Section 80C.14), MISSISSIPPI (Code Section 75-24-51), MISSOURI (Stat. Section 407.400), NEBRASKA (Rev. Stat. Section 87-401), NEW JERSEY (Stat. Section 56:10-1), SOUTH DAKOTA (Codified Laws Section 37-5A-51), VIRGINIA (Code 13.1-557-574-13.1-564), WASHINGTON (Code Section 19.100.180), WISCONSIN (Stat. Section 135.03). These and other states may have court decisions which may supersede the Franchise Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 18

PUBLIC FIGURESDISCLOSE THE FOLLOWING:

A. COMPENSATION OR OTHER BENEFIT GIVEN OR PROMISED TO A PUBLIC FIGURE ARISING FROM:

- (1) The use of the public figure in the franchise name or symbol or
- (2) The endorsement or recommendation of the franchise to prospective franchisees.

B. THE EXTENT TO WHICH THE PUBLIC FIGURE IS INVOLVED IN THE ACTUAL MANAGEMENT OR CONTROL OF THE FRANCHISOR.

C. THE TOTAL INVESTMENT OF THE PUBLIC FIGURE IN THE FRANCHISOR.

Item 18 Instructions:

- i. A "public figure" is a person whose name or physical appearance is generally known to the public in the geographic area where the franchise will be located.
- ii. Disclose the compensation paid or promised for the endorsement or use of the name of the public figure.
- iii. Describe the public figure's position and duties in the franchisor's business structure.
- iv. State the amount of the public figure's investment. Describe the extent of the amount contributed in services performed or to be performed. State the type of investment (for example, common stock, promissory note).
- v. Use Sample Answer 18-1 for a negative response.

Sample Answer 18-1Belmont does not use any public figure to promote its franchise.Sample Answer 18-2

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Belmont has paid Ralph Doister \$50,000 for the use of his name in promoting the sale of our franchise. The right expires December 31, 1992. Belmont has produced newspaper ads, a brochure and a video which feature Mr. Doister. Mr. Doister does not manage or own an interest in Belmont.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 19

## EARNINGS CLAIMS

A. AN EARNINGS CLAIM MADE IN CONNECTION WITH AN OFFER OF A FRANCHISE MUST BE INCLUDED IN FULL IN THE OFFERING CIRCULAR AND MUST HAVE A REASONABLE BASIS AT THE TIME IT IS MADE. IF NO EARNINGS CLAIM IS MADE, ITEM 19 OF THE OFFERING CIRCULAR MUST CONTAIN THE NEGATIVE DISCLOSURE PRESCRIBED IN THE INSTRUCTION.

## Item 19 Instructions:

i. Definition: "Earnings claim" means information given to a prospective franchisee by, on behalf of or at the direction of the franchisor or its agent, from which a specific level or range of actual or potential sales, costs, income or profit from franchised or non-franchised units may be easily ascertained.

A chart, table or mathematical calculation presented to demonstrate possible results based upon a combination of variables (such as multiples of price and quantity to reflect gross sales) is an earnings claim subject to this item.

An earnings claim limited solely to the actual operating results of a specific unit being offered for sale need not comply with this item if it is given only to potential purchasers of that unit and is accompanied by the name and last known address of each owner of the unit during the prior three years.

ii. Supplemental earnings claim: If a franchisor has made an earnings claim in accordance with this Item 19, the franchisor may deliver to a prospective franchisee a supplemental earnings claim directed to a particular location or circumstance, apart from the offering circular. The supplemental earnings claim must be in writing, explain the departure from the earnings claim in the offering circular, be prepared in accordance with this Item 19, and be left with the prospective franchisee.

iii. Scope of requirement: An earnings claim is not required in connection with the offer of franchises; if made, however, its presentation must conform with this Item 19. If an earnings claim is not made, then negative disclosure 19 (below) must be used.

iv. Claims regarding future performance: A statement or prediction of future performance that is prepared as a forecast or projection in accordance with the statement on standards for accountants' services on prospective financial information for its successor) issued by the American Institute of Certified Public Accountants, Inc., is presumed to have a reasonable basis.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

v. Burden of proof: The burden is upon the franchisor to show that it had a reasonable basis for its earnings claim.

## [NEGATIVE DISCLOSURE 19]

## REPRESENTATIONS REGARDING EARNINGS CAPABILITY

Belmont does not furnish or authorize its salespersons to furnish any oral or written information concerning the actual or potential sales, costs, income or profits of [a Belmont muffler shop]. Actual results vary from unit to unit and Belmont cannot estimate the results of any particular franchise.

B. AN EARNINGS CLAIM SHALL INCLUDE A DESCRIPTION OF ITS FACTUAL BASIS AND THE MATERIAL ASSUMPTIONS UNDERLYING ITS PREPARATION AND PRESENTATION.

## Item 19B Instructions:

i. Factual Basis: The factual basis of an earnings claim includes significant matters upon which a franchisee's future results are expected to depend. This includes, for example, economic or market conditions which are basic to a franchisee's operation and encompass matters affecting, among other things, franchisee's sales, the cost of goods or services sold and operating expenses.

In the absence of an adequate operating experience of its own, a franchisor may base an earnings claim upon the results of operations of a substantially similar business of a person affiliated with the franchisor or franchisees of that person; provided that disclosure is made of any material differences in the economic or market conditions known to, or reasonably ascertainable by, the franchisor.

## ii. Basic Disclosures: The earnings claim must state:

- Material assumptions, other than matters of common knowledge, underlying the claim (see Definition iii under Item 3 for the definition of "material");
- A concise summary of the basis for the claim including a statement of whether the claim is based upon actual experience of franchised units and, if so, the percentage of franchised outlets in operation for the period covered by the earnings claim that have actually attained or surpassed the stated results;
- A conspicuous admonition that a new franchisee's individual financial results are likely to differ from the result stated in the earnings claim; and



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- d. A statement that substantiation of the data used in preparing the earnings claim will be made available to the prospective franchisee on reasonable request.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Item 20

LIST OF OUTLETS

A. THE NUMBER OF FRANCHISES OF A TYPE SUBSTANTIALLY SIMILAR TO THOSE OFFERED AND THE NUMBER OF FRANCHISOR OWNED OR OPERATED OUTLETS AS OF THE CLOSE OF EACH OF THE FRANCHISOR'S LAST 3 FISCAL YEARS. SEGREGATE FRANCHISES THAT ARE OPERATIONAL FROM FRANCHISES NOT YET OPERATIONAL. SEGREGATE DISCLOSURE BY STATE. TOTAL EACH CATEGORY.

B. THE NAMES OF ALL FRANCHISEES AND THE ADDRESSES AND TELEPHONE NUMBERS OF ALL OF THEIR OUTLETS. THE FRANCHISOR MAY LIMIT ITS DISCLOSURE TO ALL FRANCHISEE OUTLETS IN THE STATE, BUT IF THESE FRANCHISEE OUTLETS TOTAL FEWER THAN 100, DISCLOSE FRANCHISEE OUTLETS FROM ALL CONTIGUOUS STATES AND THEN THE NEXT CLOSEST STATE(S) UNTIL AT LEAST 100 FRANCHISEE OUTLETS ARE LISTED.

C. THE ESTIMATED NUMBER OF FRANCHISES TO BE SOLD DURING THE 1 YEAR PERIOD AFTER THE CLOSE OF THE FRANCHISOR'S MOST RECENT FISCAL YEAR.

D. THE NUMBER OF FRANCHISEE OUTLETS IN THE FOLLOWING CATEGORIES THAT, FOR THE 3-YEAR PERIOD IMMEDIATELY BEFORE THE CLOSE OF FRANCHISOR'S MOST RECENT FISCAL YEAR, HAVE:

(1) Transferred controlling ownership;

(2) Been cancelled or terminated by the franchisor;

(3) Not been renewed by the franchisor;

(4) Been reacquired by the franchisor; or

(5) Been reasonably known by the franchisor to have otherwise ceased to do business in the system.

E. THE NAME AND LAST KNOWN HOME ADDRESS AND TELEPHONE NUMBER OF EVERY FRANCHISEE WHO HAS HAD AN OUTLET TERMINATED, CANCELLED, NOT RENEWED, OR OTHERWISE VOLUNTARILY OR INVOLUNTARILY CEASED TO DO BUSINESS UNDER THE FRANCHISE AGREEMENT DURING THE MOST RECENTLY COMPLETED FISCAL YEAR OR WHO HAS NOT COMMUNICATED WITH THE FRANCHISOR WITHIN 10 WEEKS OF THE APPLICATION DATE.

Item 20 Instructions:

i. Do not include a transfer when beneficial ownership of the franchise does not change.

ii. List an outlet that is reacquired by the franchisor in that column whether or not it also fits another category.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

iii. Other than the franchisee names, addresses, and telephone numbers, disclose Item 20 information in tabular form. Use footnotes or a "remarks" column to elaborate on information in the table or to disclose caveats. Disclose the number of franchised and franchisor owned outlets sold, opened and closed. Disclose the total number of franchised and franchisor owned outlets open at the end of each year. Disclose information for each of the last 3 fiscal years.

iv. If an outlet has been operated by more than one franchisee, disclose each transfer in the transfer column.

v. Disclose information about franchisor owned outlets that are substantially similar to the franchised outlets. In this item "franchisor owned" outlets include outlets owned by the franchisor and by its affiliates. Use a separate table with a format similar to the format for franchised outlets. The same table may be used if the franchisor owned outlets are separated from franchised outlets.

vi. For franchisees operating within the system disclose franchisee business addresses and telephone numbers. List outlets owned by the persons listed in Item 2 and their immediate families or by business entities owned by them as franchisor owned outlets. These outlets can be identified in the table by an asterisk.

vii. Separate information by state. List all states for which franchisor has information responsive to this item.

viii. When the requirement states "most recent fiscal year," the franchisor may use a more recent date if it discloses that date and uses that date for all disclosures in this item.

ix. When the requirement states "most recent fiscal year," the state may require a more recent date.

## Sample Answer 20

STATE	TELEPHONE	FRANCHISED STATE STATUS SUMMARY FOR YEARS 1992/1991/1990			TOTAL FROM LEFT COLUMN OTHER (2)	FRANCHISES OPERATING AT YEAR END
		CANCELLED OR TERMINATED	NOT REVERSED	REACQUIRED BY FRANCHISOR		
ALASKA					2/0/0	2/0/0
ARIZONA	2/1/0				2/1/0	8/6/2
ARKANSAS						6/4/2
CALIFORNIA					1/1/0	4/0/0

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

COLORADO							1/1/1
CONNECTICUT							5/1/1
DELAWARE							4/4/0
FLORIDA							2/0/0
GEORGIA							2/0/0
IDAH0							2/0/0
TOTALS	2/1/0	1/0/0	0/0/0	0/0/0	1/1/0	4/2/0	40/20/8

## Notes:

(1) All numbers are as of December 31 for each year.

(2) The numbers in the "Total" column may exceed the number of stores affected because several events may have affected the same store. For example, the same store may have had multiple owners.

STATUS OF COMPANY OWNED STORES  
FOR YEARS 1992/1991/1990

STATE	STORES CLOSED DURING YEAR	STORES OPENED DURING YEAR	TOTAL STORES OPERATING AT YEAR END

Alaska  
Arizona

Arkansas  
California

Colorado

Connecticut

Delaware  
Florida

Georgia

Idaho

Totals 0/0/0 0/0/0 0/0/0

ATTORNEY GENERAL  
NOTICE OF ADOPTED AMENDMENT(S)  
Item 21

FINANCIAL STATEMENTS

PREPARE FINANCIAL STATEMENTS IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THESE FINANCIAL STATEMENTS MUST BE AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. UNAUDITED STATEMENTS MAY BE USED FOR INTERIM PERIODS. INCLUDE THE FOLLOWING FINANCIAL STATEMENTS:

A. THE FRANCHISOR'S BALANCE SHEETS FOR THE LAST TWO FISCAL YEAR ENDS BEFORE THE APPLICATION DATE. IN ADDITION, INCLUDE STATEMENTS OF OPERATIONS, OF STOCKHOLDERS EQUITY AND OF CASH FLOWS FOR EACH OF THE FRANCHISOR'S LAST THREE FISCAL YEARS. IF THE MOST RECENT BALANCE SHEET AND STATEMENT OF OPERATIONS ARE AS OF A DATE MORE THAN 90 DAYS BEFORE THE APPLICATION DATE, THEN ALSO SUBMIT AN UNAUDITED BALANCE SHEET AND STATEMENT OF OPERATIONS AS OF A DATE WITHIN 90 DAYS OF THE APPLICATION DATE.

B. AFFILIATED COMPANY STATEMENTS. INSTEAD OF THE DISCLOSURE REQUIRED BY ITEM 21A, THE FRANCHISOR MAY INCLUDE FINANCIAL STATEMENTS OF ITS AFFILIATED COMPANY IF THE AFFILIATED COMPANY'S FINANCIAL STATEMENTS SATISFY ITEM 21A AND THE AFFILIATED COMPANY ABSOLUTELY AND UNCONDITIONALLY GUARANTEES TO ASSUME THE DUTIES AND OBLIGATIONS OF THE FRANCHISOR UNDER THE FRANCHISE AGREEMENT.

C. CONSOLIDATED AND SEPARATE STATEMENTS:

- (1) When a franchisor owns a direct or beneficial, controlling financial interest in another corporation, its financial statements should reflect the financial condition of the franchisor and its subsidiaries.
- (2) If the applicant is a subfranchisor include separate financial statements for the franchisor and subfranchisor related entity.
- (3) Prepare consolidated and separate financial statements in accordance with generally accepted accounting principles.

Item 21 Instructions:

- i. States may require financial statements additional to those listed in this Item.
- ii. A company controlling 80% or more of a franchisor may be required to include its financial statements.
- iii. Present required financials in a format of columns which compare at least 2 fiscal years.
- iv. In Item 21A, the required financial statements for a franchisor with a

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

Note: Belmont no longer operates company owned stores.

PROJECTED OPENINGS			
AS OF DECEMBER 31, 1992			
	PROJECTED FRANCHISED NEW STORES IN THE NEXT FISCAL YEAR	PROJECTED COMPANY OWNED OPENINGS IN NEXT FISCAL YEAR	
STATE	OPEN (1)		YEAR

Alaska	1	1	
Arizona			
Arkansas			
California			
Colorado			
Connecticut		2	
Delaware			
Florida			
Georgia			
Idaho	1		

Totals	2	3	0
--------	---	---	---

Note:  
(1) As of December 31, 1992



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

calendar fiscal year end and a July 15, 1989 application filing date are:

- a. Unaudited balance sheet as of either April 30, May 31 or June 30, 1989 with an unaudited income statement for the period from January 1, 1989 to the date of the balance sheet.
- b. Balance sheets, statements of operations, of stockholders equity and of cash flow. The balance sheets should be audited and as of December 31, 1987 and 1988. The remaining statements should be audited and should be for periods ending December 31, 1986, 1987 and 1988; and
- c. If the franchisor has never had an audit, it need not supply the financial statement required by (b) if it supplies either an audit as of its last fiscal year end or the statements required by (a) in an audited form.

v. In the Item 21B response, the affiliate's guaratee need cover only the franchisor's obligations to the franchisee. The guaratee need not extend to third parties. A sample guaratee is on page in Exhibit.

vi. In the Item 21B response the filing state may permit a surety bond instead of the parent company's guaratee.

vii. Disclose the existence of a guaratee.

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Item 22

## CONTRACTS

ATTACH A COPY OF ALL AGREEMENTS PROPOSED FOR USE OR IN USE IN THIS STATE REGARDING THE OFFERING OF A FRANCHISE, INCLUDING THE FRANCHISE AGREEMENT, LEASES, OPTIONS AND PURCHASE AGREEMENTS.

## Item 22 Instructions:

- i. Copies of agreements attached to the offering circular under Item 22 are part of the offering circular. Each offering circular delivered to a prospective franchisee must include copies of all agreements to be offered.

- ii. The franchisor may cross reference Item 10 for financing agreements.

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

to receive service of process if not disclosed in Item 1.

Sample Answer 23

RECEIPT

THIS OFFERING CIRCULAR SUMMARIZES CERTAIN PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF BELMONT OFFERS YOU A FRANCHISE, BELMONT MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- (1) THE FIRST PERSONAL MEETING TO DISCUSS OUR FRANCHISE; OR
- (2) TEN BUSINESS DAYS BEFORE SIGNING OF A BINDING AGREEMENT; OR
- (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT TO BELMONT.

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN ANY FRANCHISE AGREEMENT.

IF BELMONT DOES NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND (STATE AGENCY).

Belmont authorizes Legal Process Corp at 448 West Washington Avenue, City, State to receive service of process for Belmont. I have received a Uniform Franchise Offering Circular dated . This offering circular included the following exhibits:

- A. License Agreement
- B. Equipment Lease
- C. Lease for Premises
- D. Loan Agreement

Date Franchisee

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

Item 23

RECEIPT

THE LAST PAGE OF THE OFFERING CIRCULAR IS A DETACHABLE DOCUMENT ACKNOWLEDGING RECEIPT OF THE OFFERING CIRCULAR BY THE PROSPECTIVE FRANCHISEE. IT MUST CONTAIN THE FOLLOWING STATEMENT IN BOLDFACE TYPE:

THIS OFFERING CIRCULAR SUMMARIZES CERTAIN PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF OFFERS YOU A FRANCHISE, MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- (1) The first personal meeting to discuss our franchise; or
- (2) Ten business days before the signing of a binding agreement; or
- (3) Ten business days before a payment to .

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN A FRANCHISE AGREEMENT.

IF DOES NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND THE ILLINOIS ATTORNEY GENERAL OFFICE, 500 SOUTH SECOND STREET, SPRINGFIELD, ILLINOIS 62706. (Any additional state disclosure time or required statutory language.)

Item 23 Instructions:

- i. Place the name of the franchisor in the blank.
- ii. Make two copies of the Receipt: one for retention by the franchisee and one by the franchisor.
- iii. Disclose the name, principal business address and telephone number of the subfranchisor or franchise broker offering the franchise in this State.
- iv. List the title of all attached exhibits.
- v. Effective Date: (Leave blank until notified of effectiveness by State regulatory authority.).
- vi. The name and address of the franchisor's registered agent authorized

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Cover Page:--The outside front cover of the offering circular shall contain the following information:

- 1- The title in boldface type:--Franchise--offering--circular--for prospective franchisees required by the State of (name of state);
- 2- The name, type of business organization, principal business address and telephone number of the franchisor;
- 3- If different than in 2, above, the name, principal business address and telephone number of the subfranchisor or franchise broker offering in this state the herein described franchise;
- 4- A sample of the primary business trademark, logo type, trade name, or commercial label or symbol used by the franchisor for marketing its products or services and under which the franchisees will conduct its business:--(Place in upper left hand corner of the cover page.)
- 5- A brief description of the franchise to be offered;
- 6- A summary of items 5 and 7 of the offering circular:--to wit:--Franchise's Initial Investment; Franchise Fee or Other Payment; and Franchise's Initial Investment; respectively;
- 7- Effective Date:--(leave blank until notified of effectiveness by state regulatory authority.)
- 8- The following statement in boldface type:

THIS OFFERING CIRCULAR IS PROVIDED FOR YOUR OWN PROTECTION AND CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THIS OFFERING CIRCULAR AND ALL CONTRACTS AND AGREEMENTS SHOULD BE READ CAREFULLY IN THEIR ENTIRETY FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

A FEDERAL TRADE COMMISSION RULE MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE WITHOUT FIRST PROVIDING THIS OFFERING CIRCULAR TO THE PROSPECTIVE FRANCHISEE AT THE EARLIER OF (1) THE FIRST PERSONAL MEETING, OR (2) TEN BUSINESS DAYS BEFORE THE SIGNING OF ANY FRANCHISE OR RELATED AGREEMENT, OR (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT. THE PROSPECTIVE FRANCHISEE MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS PRIOR TO THE SIGNING OF THE FRANCHISE AGREEMENT.

IF THIS OFFERING CIRCULAR IS NOT DELIVERED ON TIME, OR IF IT CONTAINS A FALSE, INCOMPLETE, INACCURATE OR MISLEADING STATEMENT, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

BE--REPORTED--TO--THE--FEDERAL--TRADE--COMMISSION--WASHINGTON--D-C-20580--AND--TO--THE--ILLINOIS--ATTORNEY--GENERAL'S--OFFICE--500--SOUTH--SECOND--STREET--SPRINGFIELD--ILLINOIS--62706--WHICH--ADMINISTERS--AND--ENFORCES--THE--ILLINOIS--FRANCHISE--DISCLOSURE--ACT.

- 9- The name and address of the franchisor's registered agent in this state authorized to receive service of process;
  - 10- The name and address of the subfranchisor or franchise broker's registered agent in this state authorized to receive service of process;
- Table of Contents:--Include a table of contents based on the requirements of this offering circular.
- Body of Offering Circular:--The offering circular shall contain the following information clearly and concisely stated in narrative form:

1- THE FRANCHISOR AND ANY PREDECESSORS:--Set forth in summary form:--(the disclosure regarding predecessors need only cover the 15-year period immediately preceding the close of franchisor's most recent fiscal year.)

- A- The name of the franchisor and any predecessors thereto;
- B- The name under which the franchisor is currently doing or intends to do business;
- C- The franchisor's principal business address and the business address or addresses of any predecessors thereto;
- D- The business form of the franchisor whether corporate, partnership or otherwise;
- E- A description of the franchisor's business and the franchises to be offered in this state;
- F- The prior business experience of the franchisor and any predecessors thereto including:
  - (1) The length of time the franchisor has conducted a business of the type to be operated by the franchisee;
  - (2) The length of time each predecessor conducted a business of the type to be operated by the franchisee;
  - (3) The length of time the franchisor has offered franchises for such business.



## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

(4) the length of time the predecessor offered franchises for such business;

(5) Whether the franchisor has offered franchises in other lines of business including:

(a) a description of such other lines of business;

(b) the number of franchises sold in each other line of business;

(c) the length of time the franchisor has offered each such franchise; and

(6) Whether each predecessor offered franchises in other lines of business including:

(a) a description of such other lines of business;

(b) the number of franchises sold in each other line of business; and

(c) the length of time each predecessor offered each such franchise.

2- IDENTIFY AND BUSINESS EXPERIENCE OF PERSONS APPLIED WITH THE FRANCHISOR, FRANCHISE BROKERS, list by name and position held the directors, trustees and/or general partners as the case may be the principal officers (including the chief executive and chief operating officer), financial officer, franchise marketing, training and service officers, and other executives or subfranchisors who will have management responsibility in connection with the operation of the franchisor's business relating to the franchisees offered by this offering circular and all franchise brokers. With regard to each person listed, state his principal occupation and employers during the past five years.

3- DISCLOSURE: State whether the franchisor any person or franchise broker identified in 2- above:

A- Has any administrative, criminal or material civil action (or a significant number of civil actions) respectively of materiality pending against him alleging a violation of any franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations, if so set forth the name of the person, the court of other forum, nature and current status of any such pending action. Franchisor may include a summary option of

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

counsel as to any such action but only if a consent to use of such summary opinion is included as part of this offering circular.

B- Has during the 10-year period immediately preceding the date of the offering circular been convicted of a felony or pleaded not guilty to a felony charge or been held liable in a civil action by final judgment or been the subject of a material complaint or other legal proceeding if such felony, civil action, complaint or other legal proceeding involved violation of any franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations, if so set forth the name of the person convicted the court and date of conviction or person against whom judgment was entered, penalty or damages assessed in connection therewith and/or terms of settlement.

C- Is subject to any currently effective injunctive or restrictive order or decree relating to the franchise or under any federal, state or Canadian franchise, securities, antitrust, trade regulation or trade practice law as a result of a concluded or pending action or proceeding brought by a public agency, if so set forth the name of the person so subject, the public agency and court, a summary of the allegations or facts found by the agency or court and the date, nature, terms and conditions of the order or decree.

4- BANKRUPTCY: State whether the franchisor or any predecessor or general partner of the franchisor has during the 15-year period immediately preceding the date of the offering circular been adjudged bankrupt or reorganized due to insolvency or was a principal officer of any company or a general partner in any partnership that was adjudged bankrupt or reorganized due to insolvency during or within a year after the period that such officer or general partner of the franchisor held such position in such company or partnership or whether any such bankruptcy or reorganization proceeding has been commenced, if so set forth the name of the person or company adjudged bankrupt or reorganized or named in any such proceeding and the date thereof and any material facts or circumstances.

5- FRANCHISES: INITIAL PRANCHISE PEE OR OTHER INITIAL PAYMENT: Describe in detail the following:

A- The initial franchise fee or other initial payment for the franchise if any charged upon the signing of the franchise agreement, and whether payable in lump sum or installments. Set forth the manner in which the franchisor will use or apply such

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

franchise--fee--or--initial--payment:---State-whether-such-fee-or payment-is-refundable-and-if-so-under-what-conditions:

- B- If-an-identical-initial-franchise-fee-or-other-initial-payment-is not-charged-in-connection-with-each-franchise-agreement---state the-method-or-formula-by-which-such-fee-or-payment-is-determined:
- 6- OTHER---PBBB---Describe-in-detail-other-recurring-or-isolated-fee-or payments-including-but-not-limited-to-royalties---service---fees training---fees---lease---payments-and-advertising-fees-and-charges-that the-franchisee-is-required-to-pay-the-franchisor-or-persons-affiliated with-the-franchisor-or-which-the-franchisor-or-such-affiliated-person imposes-or-collects-in-whole-or-in-part-on-behalf-of-a-third-party. Include-if-applicable-the-formula-used-to-compute-such-other-fees and-payments:---State-whether-any-such-fee-or-payment-is-refundable and-if-so-under-what-conditions:

- 7- FRANCHISEE'S INITIAL INVESTMENT:---Describe-in-detail-the-following expenditures-(which-may-be-estimated-or-described-by-a-low-high-range if-not-known-exactly)-stating-for-each-to-whom-the-payments-are-to-be made--when-such-payments-are-to-be-determined-whether-any-payment-is refundable-and-if-so-under-what-conditions-and-if-any-part-of-the franchisee's-initial-investment-in-the-franchise-will-or-may-be financed-an-estimate-of-the-loan-repayments-including-interest:

- A- Real-property-whether-or-not-financed-by-contract---installment purchase-or-lease---If-netter-estimable-not-describable-by-a low-high-range---describe-the-variable-requirements-such-as property-location-and-building-size-which-make-the-real-property expenditure-netter-estimable-not-describable-by-a-low-high range:

- B- Equipment---fixtures---other---fixed---assets---construction remodeling---leasehold-improvements-and-decorating-costs-whether or-not-financed-by-contract---installment-purchases---lease-or otherwise:

- C- Inventory-required-to-commence-operation:

- B- Security-deposits---other-prepaid-expenses-and-working-capital required-to-commence-operation:

- B- Any-other-payments-which-the-franchisee-will-be-required-to-make in-order-to-commence-operations:

NOTE:--The-following-statement-shall-be-inserted-in-the-offering circular-at-this-point:

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Where---are---no---other-direct-or-indirect-payments--in conjunction-with-the-purchase-of-the-franchise:

- 8- OBLIGATIONS-OF-FRANCHISEE-TO-PURCHASE-OR-LEASE-FROM-DESIGNATED SOURCES:---State-any-obligations-of-the-franchisee-or-subfranchisor whether-arising-by-terms-of-the-franchise-agreement-or-other-device-or practice-to-purchase-or-lease-from-the-franchisor-or-his-designee goods-services-supplies-fixtures-equipment-inventory-or-real estate-relating-to-the-establishment-or-operation-of-the-franchise business---Regarding-such-obligations-state-the-following:

- A- The-goods-services-supplies-fixtures-equipment-inventory-or real-estate-required-to-be-purchased-or-leased-from-the franchisor-or-his-designee:

- B- Whether-and-if-so-the-precise-basis-by-which-the-franchisor its-parent-or-persons-affiliated-with-the-franchisor-will-or-may derive-income-based-on-or-as-a-result-of-any-such-required purchases-or-leases:

- C- To-the-extent-known-or-estimable-by-the-franchisor-the-magnitude of-such-required-purchases-and-leases-in-rotation-to-all purchases-and-leases-by-the-franchisee-of-goods-and-services which-the-franchisee-will-make-or-enter-into-it-in-the establishment-and-(2)-in-the-operation-of-the-franchise-business:

- 9- OBLIGATIONS-OF-FRANCHISEE-TO-PURCHASE-OR-LEASE-IN-ACCORDANCE-WITH SPECIFICATIONS-OR-FROM-APPROVED-SUPPLIERS:---State-any-obligations-of-the-franchisee-or-subfranchisor-whether-arising-by-terms-of-the franchise-agreement-or-other-device-or-practice-to-purchase-or-lease in-accordance-with-specifications-issued-by-the-franchisor-or-from suppliers-approved-by-the-franchisor-goods-services-supplies fixtures-equipment-inventory-or-real-estate-relating-to-the establishment-or-operation-of-the-franchise-business---Regarding-such obligations-state-the-following:

- A- The-goods-services-supplies-fixtures-equipment-inventory-or real-estate-required-to-be-purchased-or-leased-in-accordance-with specifications-or-from-suppliers-approved-by-the-franchisor:

- B- The-manner-in-which-the-franchisor-issues-and-modifies specifications-or-grants-and-revokes-approval-to-suppliers:

- C- Whether-and-for-what-categories-of-goods-and-services-the franchisor-or-persons-affiliated-with-the-franchisor-are-approved suppliers-or-the-only-approved-suppliers:

- B- Whether-and-if-so-the-precise-basis-by-which-the-franchisor:



## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

its parent or persons affiliated with the franchisor may derive income from purchases made from it or from other approved suppliers if this is the case.

10. FINANCING ARRANGEMENTS: State the terms and conditions of any financing arrangements offered directly or indirectly by the franchisor, its agent or affiliated company, including:

A. A description of any waiver of defenses or similar provisions in any note, contract or other instrument to be executed by the franchisee or subfranchisor.

B. A statement of any past or present practice or of any intent of the franchisor to sell, assign, or discount to a third party, in whole or in part, any note, contract or other instrument executed by the franchisee or subfranchisor.

C. A description of any payments received by the franchisor from any person for the placement of financing with such person.

11. OBLIGATIONS: OP--THE FRANCHISOR; OTHER--SUPERVISOR; ASSISTANCE--OR SERVICES: Where applicable, describe the following:

A. The obligations to be met by the franchisor prior to the opening of the franchise business, setting by section and page the provisions of the franchise or related agreement requiring performance.

B. Other supervisory assistance or services to be provided by the franchisor prior to the opening of the franchise business although the franchisor is not bound by the franchise or any related agreement to provide the same. As part of this disclosure franchisor must disclose that he is not so bound.

C. The obligations to be met by the franchisor during the operation of the franchise business, including without limitation, the assistance to the franchisee in the operation of his business. Set by section and page the provisions of the franchise or related agreement requiring performance.

D. Other supervision, assistance or services to be provided by the franchisor during the operation of the franchise business although the franchisor is not bound by the franchise or any related agreement to provide the same. As part of this disclosure franchisor must disclose that he is not so bound.

E. The methods used by the franchisor to select the location for the franchise's business.

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

F. The typical length of time between the signing of the franchise agreement and the first payment of any consideration for the franchise and the opening of the franchise's business.

G. The training program of the franchisor, including:

(1) The location, duration and content of the training program;

(2) When the training program is to be conducted;

(3) The experience that the instructors have had with the franchisor;

(4) Any charges to be made to the franchisee and the extent to which the franchisee will be responsible for travel and living expenses of the person(s) who enroll in the training program;

(5) If the training program is not mandatory, the percentage of new franchisees that enrolled in the training program during the 12 months immediately preceding the date of the offering circular; and

(6) Whether any additional training programs and/or refresher courses are available to the franchisee and whether the franchisee will be required to attend the same.

12. EXCLUSIVE AREA OR TERRITORY: Describe any exclusive area or territory granted the franchisee and with respect to such area or territory state whether:

A. The franchisor has established or may establish a company-owned outlet using the franchisor's trade name or trademark;

B. The franchisor has established or may establish a company-owned outlet using the franchisor's trade name or trademark;

C. The franchisor or its parent or affiliate has established or may establish other franchises or company-owned outlets selling or leasing similar products or services under a different trade name or trademark;

D. Continuation of the franchise's area or territorial exclusivity is dependent upon achievement of a certain sales volume, market penetration or other contingency and under what circumstances the franchise's area or territory may be altered;

13. TRADEMARKS: SERVICE MARKS: TRADE NAMES: LOGOTYPES AND COMMERCIAL



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

**SYMBOLS:** Describe any trademarks, service marks, trade names, logos or other commercial symbols to be licensed to the franchisee including the following:

A: Whether the trademark, service mark, trade name, logo or other commercial symbol is registered with the United States Patent Office and, if so, for each such registration state the registration date and number and whether or not the registration is on the principal or supplemental register.

B: Whether the trademark, service mark, trade name, logo or other commercial symbol is registered in this state or the state in which the franchise business is to be located and the dates of such registrations.

C: A description of any presently effective determinations of the Patent Office, the trademark administrator of this state or any court, any pending interference, opposition or cancellation proceeding and any pending material litigation involving such trademarks, service marks, trade names, logos or other commercial symbols and which is relevant to their use in this state or the state in which the franchise business is to be located.

D: A description of any agreements currently in effect which significantly limit the rights of the franchisor to use or license the use of such trademarks, service marks, trade names, logos or other commercial symbols in any manner material to the franchisee.

E: Whether the franchisor is obligated by the franchise agreement or otherwise to protect any or all rights which the franchisee has to use such trademarks, service marks, trade names, logos or other commercial symbols and to protect the franchisee against claims of infringement or unfair competition with respect to the same.

F: Whether there are any infringing uses actually known to the franchisor which could materially affect the franchisee's use of such trademarks, service marks, trade names, logos or other commercial symbols in this state or state in which the franchise business is to be located.

14. **PATENTS AND COPYRIGHTS:** If the franchisor owns any rights in or to any patents or copyrights which are material to the franchisee describe such patents and copyrights, their relationship to the franchise and the terms and conditions under which the franchisee may use them including their duration, whether the franchisor can and

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

intends to renew any copyrights and to the extent relevant the information required by Section 13 above with respect to such patents and copyrights.

15. **OBLIGATION OF THE FRANCHISEE TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS:** State fully the obligation of the franchisee or the franchisor, whether arising by terms of the franchise agreement or other device or practice to participate personally in the direct operation of the franchise business or whether the franchisor recommends participation in the same.

16. **RESTRICTIONS ON GOODS AND SERVICES OFFERED BY FRANCHISEE:** State any restriction or condition imposed by the franchisor, whether by terms of the franchise agreement or by other device or practice of the franchisor, whereby the franchisee is restricted as to the goods or services he may offer for sale or limited in the customers to whom he may sell such goods or services.

17. **RENEWAL, TERMINATION, REPURCHASE, MODIFICATION AND ASSIGNMENT OF THE FRANCHISE AGREEMENT AND RELATED INFORMATION:** With respect to the franchise and any related agreements state the following:

A: The term and whether such term is affected by any agreement (including leases or subleases) other than the one from which such term arises.

B: The conditions under which the franchisee may renew or extend.

C: The conditions under which the franchisor may refuse to renew or extend.

D: The conditions under which the franchisee may terminate.

E: The conditions under which the franchisor may terminate.

F: The obligations (including lease or sublease obligations) of the franchisee after termination of the franchise by the franchisor and the obligations of the franchisee (including lease or sublease obligations) after termination of the franchise by the franchisee or the expiration of the franchise.

G: The franchisee's interest upon termination or refusal to renew or extend the franchise by the franchisor or by the franchisee.

H: The conditions under which the franchisor may repurchase, whether by right of first refusal or as the option of the franchisor. If the franchisor has the option to repurchase the franchise, state whether there will be an independent appraisal of the franchisee's

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

whether the repurchase price will be determined by a predetermined formula and whether there will be a recognition of goodwill or other intangibles associated therewith in the repurchase price to be given the franchisee.

I: The conditions under which the franchisee or its owners may sell or assign all or an interest in the ownership of the franchise or of the franchise or in the assets of the franchise business.

J: The conditions under which the franchisor may sell or assign in whole or in part.

K: The conditions under which the franchisee may modify.

L: The conditions under which the franchisor may modify.

M: The rights of the franchisee's heirs or personal representative upon the death or incapacity of the franchisee.

N: The provisions of any covenant not to compete.

## 10- ARRANGEMENTS WITH PUBLIC FIGURES. State the following:

A: Any compensation or other benefit given or promised to a public figure arising in whole or in part from:

(1) the use of the public figure in the name or symbol of the franchisee or

(2) the endorsement or recommendation of the franchise by the public figure in advertisements.

B: Any right the franchisee may have to use the name of a public figure in his promotional efforts or advertising and any charges to be made to the franchisee in connection with such usage.

C: The extent to which such public figure is involved in the actual management or control of the franchisor.

D: The total investment of the public figure in the franchise operation.

## 11- REPRESENTATIONS REGARDING EARNINGS CAPABILITY:

A: Any earnings claim made in connection with the offer of a franchise must be included in full in the offering circular and must have a reasonable basis at the time it is made. If no earnings claim is made in accordance with the Guidelines for the preparation of the Uniform Franchise Offering Circular (1987,

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

with no later amendments or editions, item 19 of the offering circular shall contain the following negative disclosure:

The franchisor does not elect to make any representations regarding earnings capability to prospective franchisees.

B: Any earnings claim shall include a description of its actual basis and the material assumptions underlying its preparation and presentation.

20- INFORMATION REGARDING FRANCHISES OF THE FRANCHISOR'S MOST RECENT FISCAL YEAR FOLLOWING AS OF THE CLOSE OF THE FRANCHISOR'S MOST RECENT FISCAL YEAR:

A: The total number of franchises, exclusive of company-owned or operated distribution outlets of a type substantially similar to those offered herein and of that number, the number of such franchises which were operational as of the date of this offering circular.

B: The number of franchises in this state, exclusive of company-owned or operated distribution outlets of a type substantially similar to those offered herein and of that number, the number of such franchises which were operational as of the date of this offering circular.

C: The total number of franchises substantially similar to those offered herein for which a business is not yet operational although a franchise agreement has been signed.

D: The number of franchises in this state substantially similar to those offered herein for which a business is not yet operational although a franchise agreement has been signed.

E: The names, addresses and telephone numbers of all franchisees under franchise agreements with the franchisor or its franchisees, which are located in the state where the proposed franchise is to be located. To the extent that there are fewer than 10 such franchisees located in said state, the list shall include at least the 10 such franchisees which are most proximate to the location of the proposed franchisor and if fewer than 10 such franchisees exist, the list shall identify all such franchisees and include a statement to that effect.

In lieu of the above disclosure, the franchisor may attach to the offering circular a list of the names, address and telephone numbers of all its franchisees under franchise agreements with the franchisor or its subfranchisors.

F: An estimate of the total number of franchises to be sold or granted during the one year period following the date of the



ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

offering circular:

6- An estimate of the number of franchises to be sold or granted in this state during the one year period following the date of the offering circular.

H- State the number of franchises in each of the following categories which within the three year period immediately preceding the close of franchisor's most recent fiscal year have:

(1) been cancelled or terminated by the franchisor for:

(a) failure to comply with quality control standards; and

(b) other reasons;

(2) not been renewed by the franchisor;

(3) been reacquired through purchase by the franchisor;

(4) been otherwise reacquired by the franchisor.

21- FINANCIAL STATEMENTS: Financial statements shall be prepared in accordance with generally accepted accounting principles. Such financial statements shall be audited by an independent certified public accountant or, if permitted by the franchise law of a particular state, an independent public accountant. Unaudited statements may be used for interim periods.

A- The financial statements required to be filed by a franchisor shall include a balance sheet as of a date within 90 days prior to the date of the application and profit and loss statements for each of the three fiscal years preceding the date of the balance sheet and for the period, if any, between the close of the last of such fiscal years and the date of the balance sheet. The balance sheet as of a date within 90 days prior to the date of the application need not be audited. However, if this balance sheet is not audited, there shall be filed in addition an audited balance sheet as of the end of the franchisor's last fiscal year unless such last fiscal year ended within 90 days of the date of the application in which case there shall be filed an audited balance sheet as of the end of the franchisor's next preceding fiscal year. The profit and loss statement shall be audited up to the date of the last audited balance sheet filed, if any.

B- Controlling company statements: Where state law permits, in lieu of the disclosure required by item 21-A, complete financial statements of a company controlling the franchisor may be filed

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

but only if the unaudited financial statements of the franchisor are filed and the controlling company absolutely and unconditionally guarantees to assume the duties and obligations of the franchisor under the franchise agreement should the franchisor become unable to perform its duties and obligations.

E- Consolidated and separate statements:

(1) Where a franchisor owns, directly or beneficially, a controlling financial interest in any other corporation, the financial statements required to be filed should normally reflect on a consolidated basis the financial condition of the franchisor and each of its subsidiaries.

(2) A separate financial statement will normally be required for each substantial franchisor or subfranchisor related entity.

(3) A company controlling 80% or more of a franchisor shall normally be required to file its financial statements.

(4) Consolidated and separate financial statements shall be prepared in accordance with generally accepted accounting principles.

22- CONTRACTS: Attach a copy of all franchise and other contracts or agreements proposed for use or in use in this state, including without limitation all lease agreements, option agreements and purchase agreements.

23- ACKNOWLEDGEMENT OF RECEIPT BY PROSPECTIVE FRANCHISEE: The last page of each offering circular shall contain a detachable document acknowledging receipt of the offering circular by the prospective franchisee.

(Source: Amended at 19 Ill. Reg. effective  
JAN 1 1996)

16950



ATTORNEY GENERAL  
NOTICE OF ADOPTED AMENDMENT(S)

Section 200.APPENDIX B Franchise Broker Registration Forms

Section 200.ILLUSTRATION C Franchise Broker Surety Bond

We, \_\_\_\_\_ (broker name) \_\_\_\_\_, a corporation,  
with principal offices at \_\_\_\_\_ (broker address) \_\_\_\_\_, as  
principal, and \_\_\_\_\_ (name of Surety) \_\_\_\_\_, with principal offices at  
\_\_\_\_\_, a Surety Company  
(Surety address) \_\_\_\_\_, a Surety Company  
incorporated under the laws of the State of \_\_\_\_\_ (identify state)  
\_\_\_\_\_ and authorized to conduct business in the State of Illinois as  
Surety, are bound to the Illinois Attorney General, Obligor in the sum of  
\_\_\_\_\_ to be paid to the Obligor or its legal representatives,  
successors, or assigns, for which payment we bind ourselves and our legal  
representatives and successors, jointly and severally.

WHEREAS, the above-named principal has made application to the Illinois  
Attorney General for registration as a franchise broker under the Illinois  
Franchise Disclosure Act, Ill. Rev. Stat. 1981, ch. 121 1/2, par. 716.1 and is  
required pursuant to the Rules and Regulations promulgated under the Illinois  
Franchise Disclosure Act to post bond in the amount of \_\_\_\_\_.

WHEREAS, the Obligor intends to assign this bond to the respective  
purchaser(s) of the aforementioned franchise upon sale of the aforementioned  
franchise(s) to said purchaser(s).

THEREFORE, the condition of this obligation is that the principal:

1. Comply with the Illinois Franchise Disclosure Act and Regulations  
promulgated thereunder; and
2. Pay all damages suffered by any person by reason of the Broker's  
violation of said Illinois Franchise Disclosure Act or any Rules or  
Regulations promulgated thereunder or any acts, rules, regulations, or  
orders amendatory thereof, and/or supplementary thereto, or hereafter  
enacted, or by reason of any misrepresentation, deceit, fraud or  
omission to state a material fact necessary in order to make any  
statement made, in the light of the circumstances under which such  
statement was made, not misleading.

This bond and obligation hereunder shall be deemed to run continuously and  
shall remain in full force and effect for four full years after the date of  
execution shown below.

In the event that any action or proceeding is initiated with respect to  
this bond, the parties agree that the venue thereof shall be the County in  
which the offer or sale of the franchise occurred.

IN WITNESS WHEREOF, Principal and Surety have executed this instrument at  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

ATTORNEY GENERAL  
NOTICE OF ADOPTED AMENDMENT(S)

Section 200.APPENDIX B Franchise Broker Registration Forms

Section 200.ILLUSTRATION A Franchise Broker Registration Application Page

File No. \_\_\_\_\_  
(Insert file number of previous  
filings of Applicant, if any)

FEE: \_\_\_\_\_  
(To be enclosed by Applicant at  
time application is initially  
filed)

Date of Application: \_\_\_\_\_

Application-For-(Check-only-one):

- Registration-of-Franchise-Broker
- Registration-renewal-statement-or-annual-report
- Amendment-number-----to-application
- Post-effective
- Filed-under-Section-----
- Pre-effective
- Bated-----

1. Name of Franchise Broker.

Name under which the Franchise Broker is doing or intends to do  
business.

2. Franchisor Broker's principal business address.

Name and address of Franchisor Broker's agent in the State of Illinois  
authorized to receive process.

Illinois Attorney General, 500 South Second Street, Springfield,  
Illinois 62706

3. Name, address and telephone number of person to whom communications  
regarding this application should be directed, 16950

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective  
JAN 1 1996 )

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

Principal

Surety

(Source: Amended JAN 1 1996 at 19 Ill. Reg. 16950, effective \_\_\_\_\_)

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Section 200.APPENDIX B Franchise Broker Registration Forms

## Section 200.ILLUSTRATION D BROKER GUARANTY OF PERFORMANCE

For value received \_\_\_\_\_ (name of guarantor) \_\_\_\_\_, located at \_\_\_\_\_ (address) \_\_\_\_\_, absolutely and unconditionally guarantees the performance by broker, \_\_\_\_\_ (name of broker) \_\_\_\_\_, of all obligations under the Illinois Franchise Disclosure Act and Rules, incurred in the sale of franchises in the State of \_\_\_\_\_ and any underlying contractual responsibilities resulting from the sale of franchises occurring after this date with franchisees under the jurisdiction of the Illinois Franchise Disclosure Act, as the same have been or may hereafter be amended, modified, renewed or extended from time to time. This guaranty shall continue in force until all such obligations of broker shall have been satisfied or until such liability of broker to such franchisees has been completely discharged, whichever first occurs. Guarantor shall not be discharged from liability hereunder as long as any such claim by a franchisee against broker remains outstanding. Notice of acceptance is waived. Notice of default on the part of broker is not waived. This guaranty shall be binding upon guarantor, its successors and assigns.

In witness whereof, guarantor has, by a duly authorized officer, executed this guaranty at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

## ATTEST:

Guarantor

By:

Title:

(Source: Added at 19 Ill. Reg. 16950, effective JAN 1 1996)

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Section 200.APPENDIX C Escrow Forms

## Section 200. ILLUSTRATION A Escrow Agreement

Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by the \_\_\_\_\_ (name of franchisor), a \_\_\_\_\_ (type of business entity) organized under the laws of the State of \_\_\_\_\_ (hereinafter referred to as "Franchisor"), and \_\_\_\_\_ (hereinafter referred to as "BANK", as Escrowee for the franchisees of Franchisor;

WHEREAS, Franchisor is desirous of establishing franchises in the State of Illinois; and

WHEREAS, it is in the discretion of the Illinois Attorney General as administrator of the Illinois Franchise Disclosure Act, to require an escrow of the franchise fees; and

WHEREAS, in order to conform to the procedures for arranging an escrow account, Franchisor desires to enter into an escrow agreement with BANK, pursuant to which initial franchise fees are to be held in escrow until Franchisor has met its initial obligations to its franchisees.

NOW THEREFORE, with the foregoing recitals hereinafter incorporated by reference and made a part hereof, it is agreed as follows:

1. Franchisor shall deposit with BANK initial franchise fees received from franchisees that are required to be escrowed under the order of the Administrator, but BANK shall not be responsible for insuring that any part or all moneys received by Franchisor from each or any one franchisee are deposited with BANK.

2. Franchisor will supply BANK with the name and address of each franchisee, together with the amount of the deposit which represents moneys paid by each franchisee and BANK will maintain records containing the same information.

3. All moneys received by BANK from Franchisor shall be held by BANK as escrowee for the exclusive purpose herein described and will be placed in a single segregated account designated substantially as follows:

\_\_\_\_\_, AS ESCROWEE FOR FRANCHISEES OF \_\_\_\_\_ (Name of Franchisor) (hereinafter referred to as "Escrow Account.")

4. BANK shall accept such funds as Franchisor shall deliver to BANK, as escrowee, and BANK shall acknowledge the receipt of funds from Franchisor; however, BANK shall not be responsible for the accuracy of the information provided to it by Franchisor.

5. Any funds deposited hereunder in the Escrow Account shall be invested and kept invested by BANK, at the option of the Franchisor, in instruments of its choosing, until they are to be disbursed as provided in paragraph 6 hereof. All interest received and any increment thereon shall be added to the funds so deposited in the Escrow Account and shall be distributed as provided in paragraph 6.

6. BANK shall pay out funds, plus interest, if any, from the Escrow Account upon the occurrence of one of the following conditions:

(a) Upon receipt of a letter from an officer of Franchisor

ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

directing BANK to pay out such funds to Franchisor, accompanied by a written notice from the Administrator stating that he takes no exception (hereinafter referred to as "No Exception Notice") to the release, BANK shall pay part or all of the moneys held in escrow for the benefit of a specified franchisee, plus interest, if any, to Franchisor.

(b) Upon written notice from the Administrator BANK shall return part or all of the deposited franchise fee and other funds, plus interest, if any, to a specified franchisee.

(c) BANK shall pay funds into court or disburse or deliver them in accordance with any final order of any court of competent jurisdiction.

BANK shall not be personally liable for any act taken or omitted by it in good faith and in the exercise of its own best judgment. BANK shall also be fully protected in relying upon any written notice, demand, certificate or document which it in good faith believes to be genuine.

7. BANK is authorized, in its sole discretion, to disregard any and all notices or instructions given by any of the undersigned or by any other person, firm or corporation, except only such notices or instructions by the Administrator as are hereinafter provided for and orders of process of any court entered or issued with or without jurisdiction. If any property subject hereto is at any time attached, garnished, or levied upon under any court order or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case of any court order affecting such property or any part thereof, then and in any of such events BANK is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel of its own choosing is binding upon it; if it complies with any such order, writ, judgment or decree, it shall not be liable to any of the parties hereto or to any other person, firm or corporation by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

8. Written consent of BANK to act in the capacity of escrowee shall be manifested upon the duly authorized execution of this Agreement. The Administrator may, at any time, inspect the records of BANK, insofar as they relate to this Escrow Agreement. At the Administrator's discretion, statements indicating status of the escrow shall be furnished by BANK to the Administrator. An executed duplicate original of this Agreement shall be filed with the Administrator at Illinois Attorney General, Franchise Division, 500 South Second Street, Springfield, Illinois 62706.

9. BANK shall be paid by Franchisor for any expenses incurred by it and reasonable compensation for its services hereunder. Funds held by BANK pursuant to this Agreement shall not be subject to any liens or charges by BANK.

10. If BANK believes it to be reasonably necessary to consult with counsel concerning any of its duties in connection with this Agreement, or in the event BANK retains counsel upon becoming involved in litigation on account of any deposit or of this Agreement, Franchisor shall reimburse BANK for and indemnify



## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

and hold BANK harmless against any and all costs, attorney's fees, charges, disbursements and expenses in connection with such consultation or litigation.

11. Franchisor unconditionally guarantees that, in the event BANK misapplies, dissipates, converts or is otherwise responsible for a deficiency in the funds deposited in the Escrow Account through the exercise of less than a fiduciary standard of care, Franchisor shall reimburse each and every franchisee to the extent of such deficiency if such amounts deposited are required to be returned to such franchisee under paragraph 6(a) through (c) hereof.

12. Franchisor shall give each franchisee a copy of this Agreement prior to collecting any moneys from such franchisee.

13. BANK's duties as escrowee shall terminate upon final distribution of all moneys received under this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed, the parties intending to be legally bound hereby.

ATTEST:

BANK

Its Secretary

By: \_\_\_\_\_

Its \_\_\_\_\_

FRANCHISOR

By: \_\_\_\_\_

Its \_\_\_\_\_

(Source: Amended at 19 Ill. Reg. 16950, effective  
JAN 1 1996)

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Section 200.APPENDIX C Escrow Forms

## Section 200.ILLUSTRATION B Franchisor's Petition for Release of Escrowed Funds

\_\_\_\_\_) SS  
\_\_\_\_\_) SS  
\_\_\_\_\_)

IN THE MATTER OF:

FRANCHISOR:

FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS  
AS ADMINISTRATOR OF THE FRANCHISE DISCLOSURE ACT

The undersigned franchisor hereby requests the Administrator to authorize release from escrow the sum of \$ \_\_\_\_\_, plus accrued interest representing the franchise fee paid by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

The undersigned franchisor hereby represents that it has fulfilled the initial obligations owed to the franchisee under the franchise and other agreements and that the franchisee has commenced doing business.

Franchisor \_\_\_\_\_

By: \_\_\_\_\_ Name and Title \_\_\_\_\_

Printed Name of Franchisee \_\_\_\_\_

Address of Franchisee \_\_\_\_\_

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Source: Amended at 19 Ill. Reg. 16950, effective  
JAN 1 1996)

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

Section 200.APPENDIX E Surety Bond

We, (name of franchisor), a corporation, with principal offices at (address of franchisor) as principal, and (name of surety company), a surety company with principal offices located at (address of Surety), incorporated under the laws of the State of (address authorized to conduct business in the State of Illinois, as Surety, are indebted to the Administrator, Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706, Oblige in the sum of to be paid to the Oblige or its legal representatives, successors, or assigns, for which payment we bind ourselves and our legal representatives and successors, jointly and severally.

(Source: Amended at 19 Ill. Reg. effective

Principal

Surety

1995

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

Section 200.APPENDIX E Surety Bond

We, (name of franchisor), a corporation, with principal offices at (address of franchisor) as principal, and (name of surety company), a surety company with principal offices located at (address of Surety), incorporated under the laws of the State of (address authorized to conduct business in the State of Illinois, as Surety, are indebted to the Administrator, Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706, Oblige in the sum of to be paid to the Oblige or its legal representatives, successors, or assigns, for which payment we bind ourselves and our legal representatives and successors, jointly and severally.

WHEREAS, the above-named principal has made application to the Administrator for registration of the offer of its franchisees under the Illinois Franchise Disclosure Act and is required pursuant to said law to provide the Administrator with a Surety Bond.

WHEREAS, the Principal proposes to offer in Illinois franchise(s) within one year from the effective date of the proposed registration under the Illinois Franchise Disclosure Act; and

WHEREAS, the Oblige intends to assign this bond to the respective purchaser(s) of the aforementioned franchise(s) upon sale of the aforementioned franchise(s) to said purchaser(s).

The conditions of this bond are that if the Principal, its agent or employees shall:

1. Comply with the Illinois Franchise Disclosure Act and all rules and Orders order promulgated thereunder; and
2. Pay all damages suffered by any person by reason of the violation of the Illinois Franchise Disclosure Act or any rules or orders promulgated thereunder or any acts, rules or orders amendatory thereof and/or supplementary thereto, or hereafter enacted, or by reason of any misrepresentation, deceit, fraud or omission to state a material fact necessary in order to make any statement made in the light of the circumstances under which such statement was made, not misleading, including, but not limited to, the failure to disclose, as required by Illinois Franchise Disclosure Act and the rules and regulations promulgated thereunder, the true financial condition of franchisor; and
3. Fully completes its obligations under the Franchise Agreement and all related Agreements to provide real estate, improvements, equipment, inventory, training and other items included in the franchise offering, then this obligation shall be void; otherwise this obligation will remain in full force and effect.

This bond and obligation hereunder shall be deemed to run continuously and shall remain in full force and effect for four full year after the date of execution of this document effective-date-of-Principal's-registration--the offer-of-franchisees-under-the-Illinois-Franchise-Disclosure-Act.

In the event that any action or proceeding is initiated with respect to this bond, the parties agree that the venue thereof shall be the state or

## ATTORNEY GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

## Section 200. APPENDIX F Certificate of Deposit Forms

## Section 200. ILLUSTRATION A Franchisor's Petition for Release of Certificate of Deposit

\_\_\_\_\_) SS  
\_\_\_\_\_) SS  
\_\_\_\_\_)

IN THE MATTER OF:  
FRANCHISOR:  
FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS  
AS ADMINISTRATOR FOR THE FRANCHISE DISCLOSURE ACT

The undersigned franchisor hereby requests the Administrator to authorize release of the Certificate of Deposit in the name of the Administrator in the sum of \$ \_\_\_\_\_, plus accrued interest representing the franchise fee paid by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

The undersigned franchisor hereby represents that it has fulfilled the initial obligations owed to the franchisee under the franchise and other agreements and that the franchisee has commenced doing business.

In furtherance of this request, the undersigned franchisor submits the franchisee's statement indicating the franchisee has no objection to this request. By this statement the franchisee has not waived any rights which he may have against the undersigned franchisor.

\_\_\_\_\_  
Franchisor

By: \_\_\_\_\_  
Name and Title

Subscribe and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

Notary Public

\_\_\_\_\_  
Printed Name of Franchisee

\_\_\_\_\_  
Address of Franchisee

(Source: Amended \_\_\_\_\_ at 19 \_\_\_\_\_, effective  
JAN 1 1996)

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services

2) Code Citation: 89 Ill. Adm. Code 431

3) Section Numbers: Adopted Action:

431.15 Amend  
431.20 Amend  
431.30 Amend  
431.40 Amend  
431.50 Amend  
431.60 Amend  
431.70 Amend  
431.80 Amend  
431.90 Amend  
431.100 Amend  
431.110 Amend  
431.120 Amend  
431.130 Amend  
431.140 Amend

4) Statutory Authority: 20 ILCS 505/35.1

5) Effective Date of Rulemaking: December 15, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: December 15, 1995

9) Notice of Proposal Published in Illinois Register: August 4, 1995, 19 Ill. Reg. 11213

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: Editing comments recommended by the Joint Committee on Administrative Rules have been made and the title of the rule has been amended to include the full name of the Department.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemaking: These amendments update the Department's rules on maintenance of records and reports which contain confidential, personal information. The amendments separate child abuse/neglect report information from case record information and provide different access and disclosure requirements for the two types of records. The amendments establish the retention schedule for unfounded reports of child abuse and neglect, describe what records a court appointed special advocate may access, and outline the policy for impoundment of records by the DCFS-Inspector General.

16) Information and questions regarding these adopted amendments shall be directed to:

Jacqueline Nottingham  
Chief, Office of Rules and Procedures  
Department of Children and Family Services  
406 E. Monroe Street, Station #222  
Springfield, IL 62701-1498  
(217) 524-1983 or TTY: (217) 524-3715

The full text of the Adopted Amendment begins on the next page:

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
SUBCHAPTER f: GENERAL ADMINISTRATION

## PART 431

CONFIDENTIALITY OF PERSONAL INFORMATION  
OF PERSONS SERVED BY THE DEPARTMENT  
OF CHILDREN AND FAMILY SERVICES

- 431.15 Purpose
- 431.20 Definitions
- 431.30 Maintenance of Records
- 431.40 Required Consents Consent Prior to Disclosure of Personal Information
- 431.50 Client Access to Records Which Contain Personal Information
- 431.60 Subject Access to Records of Child Abuse and Neglect Investigations
- 431.70 Denial of Requests to Access to Information
- 431.80 Disclosure of Records of Child Abuse and Neglect Investigations
- 431.90 Disclosure of Personal Information Without Consent
- 431.100 Disclosure of Information of a Mental Health Nature
- 431.110 Disclosure of Information Regarding Acquired Immunodeficiency Syndrome (AIDS)
- 431.120 Removal of Records Prohibited
- 431.130 Impoundment of Records by the Office of the Inspector General Release of Personal Information-for-Research-Purposes
- 431.140 Applicability of This Part

AUTHORITY: Implementing Section 35.1 of the Children and Family Services Act [20 ILCS 505/35.1]; the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110]; Section 11 and 11.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/11 and 11.1]; the AIDS Confidentiality Act [410 ILCS 305]; and the Protection and Advocacy for Mentally Ill Persons Act [405 ILCS 45]; and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5]; and Section 11.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/11.1].

SOURCE: Adopted and codified at 5 Ill. Reg. 7815, effective August 3, 1981; amended at 6 Ill. Reg. 15517, effective January 1, 1983; amended at 10 Ill. Reg. 21647, effective December 31, 1986; amended at 11 Ill. Reg. 12613, effective August 1, 1987; amended at 13 Ill. Reg. 2407, effective March 1, 1989; amended at 15 Ill. Reg. 24, effective December 31, 1990; recodified at 18 Ill. Reg. 7951; amended at 19 Ill. Reg. 17089 effective

— NOV 15 1995 —

## Section 431.15 Purpose

The purpose of these rules is to specify:

- a) who has access to records which contain personal information about persons served by the Department; or about the subjects of a child

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

abuse or neglect report made to and investigated by the Department, and who must consent to release ~~disclosure~~ of personal information, b) to whom the Department may disclose ~~who may receive~~ personal information without prior consent, and c) under what conditions access to records will be granted or denied by the Department, and d) when the DCFS-Office of the Inspector General may impound the records of the Department, its foster parents or relative caregivers, service providers, or contractors.

(Source: Amended at 19 Ill. Reg. 17099 effective  
— DEC 15 1995 —)

## Section 431.20 Definitions

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody or custody or guardianship via court order, or children whose parent(s) have signed an adoptive surrender or voluntary placement agreement with the Department.

"Court appointed special advocate" means a person appointed by a court to protect the minor's best interests and insure the proper delivery of child welfare services.

"Disclose" and "permit access to" means to release, transfer, permit examination of, or otherwise communicate information orally, in writing, by electronic means or in any other manner.

"Impound" means to seize and retain in legal custody during the pendency of an investigation and any disciplinary, civil or criminal actions which result from an investigation conducted pursuant to the authority of the DCFS-Office of the Inspector General.

"Indicated Report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that some credible evidence of the alleged abuse or neglect exists.

"Mental health information" means records, reports or other information about the provision of mental health or developmental disability services as defined in the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110].

"Minor" means any individual who has not reached his 18th birthday.

"Person served by the Department" or "Client" means any person who receives services or applies for services from the Department through its various offices. The term includes children for whom the

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

Department is legally responsible, persons who involuntarily are investigated by the Department concerning allegations of child abuse or neglect and who may receive Department services during the course of, or subsequent to, such an investigation, persons who are receiving Department services through an order of the court, and persons who voluntarily request services from the Department.

"Personal information" means any identifying information, excluding work products, which is a part of the permanent record and which describes, locates or indexes anything about an individual including, but not limited to, his education, financial transactions, medical history, criminal or employment records, registration or membership in an organization or activity, or admission to an institution. Personal information may be classified as mental health information, child abuse or neglect information, medical information, or other types of sensitive information and may be governed by different access, consent and disclosure requirements.

"Serious physical injury", for purposes of this Part, includes but is not limited to brain damage, skull fractures, subdural hematomas, internal injuries, wounds, third degree burns, multiple or spiral fractures, poisoning, physical injury when evidence indicates the child has been tortured.

"State Central Register" means the specialized Department unit which receives and transmits reports of alleged child abuse and neglect.

"Subject of a report" means any child reported to the child abuse/neglect State Central Register and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

"Work product", for the purposes of this Part, means a worker's notes which are not part of the permanent record, concerning interviewing technique, strategies for working with a person served by the Department and personal observations, which are kept for the worker's own personal use and are not disclosed to any other person except the worker's supervisor or attorney.

(Source: Amended at 19 Ill. Reg. 17099 effective

DEC 15 1995

Section 431.30 Maintenance of Records



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- a) The Department, through its institutions, facilities and various offices shall maintain a record on all persons receiving services from the Department, either directly or through the purchase of services, and on all persons for whom a child abuse or neglect report has been indicated, unfounded, or for whom a decision about the report has not yet been made. Upon request from the subjects of the report, the Department may keep records of unfounded reports of child abuse or neglect to prevent future harassment of the subjects. Additionally, in accordance with Section 7.17 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.17] ~~§§11-Rev-Stat-3909-ENR-837-Per-2057-17~~, the Department may maintain case records containing identifying information related to child abuse or neglect reports.
- b) All identifying information about any indicated report held in the State Central Register or the local index shall be expunged no later than 5 years after the report was indicated unless a different retention period is specified in this Section. However, if a subsequent report involving any of the same subjects, or the siblings or offspring of the child subjects was indicated, identifying information about the subjects of all indicated reports shall be maintained in the State Central Register and the local index in accordance with the retention period specified in this Section.
- c) All identifying information about any indicated report involving the death or sexual penetration of a child reported to the State Central Register or local index as of December 31, 1990 ~~the effective date of this subsection~~ shall be retained for fifty years.
- d) ~~All identifying information about any indicated report involving the serious physical injury, sexual molestation or sexual exploitation of a child reported to the State Central Register as of December 31, 1990 the effective date of this subsection shall be retained for twenty years.~~
- e) All identifying information about any unfounded report made by a mandated reporter involving a report designated as Priority One or Two in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse or Neglect shall be retained in the State Central Register for 12 months from the date the final finding report is entered into the State Central Register. In addition, all identifying information about an unfounded report made by a nonmandated reporter involving a death allegation in Appendix B of 19 Ill. Adm. Code 300, Reports of Child Abuse or Neglect, shall be retained in the State Central Register for 12 months from the date the final finding report is entered into the State Central Register.
- f) All identifying information about any unfounded report made by a mandated reporter involving a report designated as Priority Three in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse or Neglect

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

shall be retained in the State Central Register for 60 days from the date the final finding report is entered into the State Central Register.

- All identifying information about any unfounded report made by a nonmandated reporter involving a report designated as Priority One or Two in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse or Neglect shall be retained in the State Central Register for 30 days from the date the final finding report is entered into the State Central Register.

h) All such records shall be of a confidential nature and shall not be made available to the general public.

(Source: Amended at 19 Ill. Reg. 17089 effective  
— nfr 15 1995 —)

**Section 431.40 Required Consents** **Consent Prior to Disclosure of Personal Information**

- a) Except as allowed **required** in these rules, no personal information obtained concerning a person served by the Department or concerning the subjects of a child abuse or neglect report may be disclosed by the Department without the written consent of that individual, provided that individual has reached 18 years of age or, for mental health information and information regarding birth control services, pregnancy, treatment for sexually transmissible diseases or drug or alcohol abuse, the individual must be 12 years of age.
- b) In the event that the personal information concerns a minor, the written consent of his parent, legal custodian or guardian must be obtained unless the rules in this Part specifically allow for a minor to consent to the release of the requested information.
- c) In the event that the personal information concerns any record kept by a therapist or by an agency in the course of providing mental health or developmental disabilities services to a minor or an adult, consent for release must be obtained in conformity with Sections 804 and 805 of the Mental Health and Developmental Disabilities Confidentiality Act.

Source: Amended at 19 Ill. Reg. 17099 effective

### **Section 431.50 Client Access to Records Which Contain Personal Information**

- Except as provided in this Section, persons served by the Department who have reached 12 years of age shall have full access to all records which contain their personal information, unless access is prohibited specifically by this Part. A parent whose parental rights have not been terminated or a guardian of the person of a minor shall have full access to the personal information contained in the records of said



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

minor, unless access is prohibited specifically or otherwise restricted by this Part.

b) The Department shall provide access to records within ten working days after the receipt of the request, if practicable. In instances in which the material cannot be easily identified and assembled, the Department will provide the records within a reasonable time. Records shall be viewed in the Department field office, a purchase of service provider office or another location which will not place an undue hardship on the individual. The Department may require that a representative of the Department be present when the records are viewed to interpret the contents of the records. Individuals may convey the right to view their records by a written statement to an attorney or other person.

c) Every incidence of release of information to persons outside the Department shall be recorded in the case record.

a) Access to Records for Persons Served by the Department

1) Except as provided in this Section, each person served by the Department who has reached 12 years of age shall have full access to all records which contain his personal information, unless access is prohibited by this Part. A parent whose parental rights have not been terminated or a guardian of a minor shall have full access to the personal information contained in the records of that minor, unless access is prohibited by this Part.

2) The Department shall provide access to records within 10 working days of the receipt of the request, if practicable. In instances where the material cannot be easily identified and assembled, the Department will provide the records within a reasonable time. Records shall be viewed in the Department field office, a purchase of service provider office or another location which will not place an undue hardship on the individual. The Department may require that a representative of the Department be present when the records are viewed to interpret the contents of the records. An individual may convey the right to view his records by written statement to an attorney or other person.

3) Every incidence of release of information to persons outside of the Department shall be recorded in the individual's case file showing dates and other circumstances related to the release.

b) Access to Records of Child Abuse and Neglect Reports

The following persons are allowed access to records of child abuse and neglect reports without the consent of the subjects of the report: Other persons who wish access to these records must obtain written consent from the subjects of the report as provided in Section 43-7.

1) Department staff in the furtherance of their responsibilities under the Abused and Neglected Child Reporting Act or for the purpose of completing background investigations on persons or agencies licensed by the Department or with whom the Department contracts for the provision of child welfare services.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

2) Department and purchase of service provider staff assessing children and families in which abuse or neglect has occurred or providing services to these children and families.

3) Department staff verifying whether a child care facility subject to Department licensing is owned or operated by the perpetrators of child abuse or neglect or whether employees or volunteers who work directly with children have been the perpetrators of child abuse or neglect.

4) Law enforcement officers investigating a report of suspected child abuse or neglect, known or suspected involvement with child pornography, known or suspected criminal sexual assault, known or suspected criminal sexual abuser or any other sexual offense when a child is alleged to be involved.

5) The Department of State Police when administering the provisions of the Inter governmental Missing Child Recovery Act of 1984 (Ill. Rev. Stat. 1989, ch. 23, par. 2391 et seq.).

6) State Attorneys who need access to child abuse or neglect information in the course of their assigned duties.

7) Physicians examining a child where abuse or neglect is suspected. Subject, including minor subjects of reports of suspected abuse or neglect. However, the identity or location of persons reporting or cooperating in an investigation shall not be provided to any subject, unless a subject appeals an indicated finding and a hearing officer determines that the lack of such information would prejudice the appellant's case or violate the process of law principles. In addition, the Department may seek a court order prohibiting the release to the subject of a report of any information deemed likely to be harmful to them. The circumstances under which the hearing officer will be allowed to order the disclosure to the appellant of the names of reporters or persons cooperating in the investigation include but are not limited to the following:

A) Testimony must have been offered by the appellant that the reporter or collateral witnesses demonstrated bias, motive, reason to fabricate or that the reporter or collateral witnesses have other information relevant to the testimony of the reporter or collateral witness.

B) The appellant must provide the hearing officer in private with the names of the persons believed to be the reporter or collateral witnesses.

C) The individual presenting the Department's case at the hearing would then disclose the identity of the persons to the hearing officer in an in camera setting.

D) If the reporter or collateral witness is the same as the persons named by the appellant, then the identity will be disclosed to the appellant. Otherwise, no disclosure will be made.

9) The guardian of the person or guardian ad item of a child who is

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- the subject of a report;
- 10) A court, upon its finding that access is necessary to determine an issue before the court, unless the court determines that disclosure of the information in open court is necessary, such access is limited to an inspection by the judge in his chambers or in a court room free of spectators;
- 11) A grand jury which determines that access is necessary to conduct its official business;
- 12) Persons who have been authorized by the director in writing to review the records for audit or research purposes or to review such records in the regular course of the Department's business. Such access shall be time limited or limited to specific staff functions;
- 13) Persons authorized to take temporary protective custody only if the information is needed to determine whether to take the child into temporary protective custody;
- 14) A person who has legal responsibility or authorization to care for, treat, or supervise a child or a parent, guardian, or other person responsible for the welfare of a child who is the subject of a report;
- 15) Law enforcement officers, coroners or medical examiners, physicians, courts, school superintendents and child welfare agencies in other states who are responsible for child abuse or neglect investigations or background investigations. Such information shall be requested only for the purpose of aiding the investigation, assessment or service provision or background investigation in the requesting state;
- 16) The Illinois Department of Professional Regulation, when determining whether a mandated reporter who failed to report child abuse or neglect should be subject to license suspension or revocation or when determining whether to refuse to issue or suspend or revoke the license of the following classes of persons due to the person having been named a perpetrator in an indicated report of child abuse or neglect:
- A) Physicians
  - B) Physicians' Assistants
  - C) Dentists
  - D) Registered and practical nurses
  - E) Optometrists
  - F) Physical Therapists
  - G) Podiatrists
  - H) Psychologists
  - I) Social Workers
  - J) Athletic Trainers
- 17) School superintendents and the State Board of Education when determining whether a teacher's certificate shall be suspended because the teacher has been named as a perpetrator in an indicated report of child abuse or neglect;

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 19) A coroner or medical examiner who has reason to believe that a child has died as the result of abuse or neglect;
- 19) The Director of a State-operated facility when an employee of that facility has been named as a perpetrator of an indicated report; or
- 20) Members of a multidisciplinary team in the furtherance of its responsibilities under this Act;
- 21) The operator of a licensed child-care facility or a facility licensed by the Department of Alcoholism and Substance Abuse in which children reside when a current or prospective employee of that facility has been named as a perpetrator in an indicated child abuse or neglect report;

17089

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, 1995)

# Section 431.60 Subject Access to Records of Child Abuse and Neglect Investigations

- a) Subjects, including minor subjects, of reports of suspected abuse or neglect which have been indicated or which are retained as evidence of false reporting are allowed access to the child abuse/neglect investigative record. However, no information will be released during the pendency of an investigation before the Department has determined whether the report is indicated or unfounded, except as allowed in Section 300.160 of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect or for purposes of a fair hearing requested prior to the final determination of indicated or unfounded. In addition, the identity or location of persons reporting or cooperating in such investigations shall not be provided to any subject, unless a subject appeals an indicated finding and an administrative law judge determines that the lack of such information would prejudice the appellant's case or violate due process of law principles. In addition, the Department may seek a court order prohibiting the release to the subjects of a report of any information deemed likely to be harmful to them. The circumstances under which the administrative law judge will be allowed to order the disclosure to the appellant of the names of reporters or other persons cooperating in the investigation include, but are not limited to, the following:

- 1) Testimony must have been offered by the appellant that the reporter or collateral witnesses demonstrated bias, motive, reason to fabricate or that the reporter or collateral witnesses have other information relevant to the testimony of the reporter or collateral witness.
- 2) The appellant must provide the administrative law judge in private with the names of the person(s) believed to be the reporter or collateral witness(es).
- 3) The individual presenting the Department's case at the hearing



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

shall then disclose the identity of the person(s) to the administrative law judge in an in-camera setting.

- 4) If the reporter or collateral witness(es) is the same as the person(s) named by the appellant, then the identity will be disclosed to the appellant. Otherwise, no disclosure will be made. If the identity of the reporter is disclosed, a written notice shall be sent to the reporter advising of the disclosure of the reporter's identity.

- b) The guardian of the person or guardian ad litem of a child who is the subject of a report may have access to the investigative record, as limited in subsection (a) above.

(Source: Added at 19 Ill. Reg. **17089** effective  
— **DEC 15 1995** —)

**Section 431.70 Denial of Requests to Access to Information**

A person shall be denied access to the following material which may be considered personal information:

## a) Adoption Records

- 1) The Department may deny a person his personal information in situations involving adoption when the information would allow that individual to determine the identity of his parents, siblings, or other relatives; or would allow the individual the opportunity to determine the whereabouts of a child which was voluntarily or involuntarily relinquished for adoption. The Director of the Department may release this information following an evaluation if in the Director's opinion releasing the information is in the best interests of all persons involved in the adoption of the child.

- 2) Parents whose parental rights have been surrendered or legally terminated may indicate in writing whether they would allow their child to have access to their name(s) and information about them at some time in the future. This written statement shall be provided when the child is relinquished for adoption. When the parents have requested that their name(s) and information about them not be released to the child at a later date, their request shall be respected insofar as permissible by state or federal law or regulation. One significant federal law is the Indian Child Welfare Act. Under this law the parent shall be entitled to absolute anonymity in the case of voluntary relinquishment upon request.

- 3) All requests shall be included both in the parents' and child(ren)'s child's records.

- b) Information Accepted under Promise of Confidentiality  
Persons shall be denied access to information which will identify the source of any information obtained during a child abuse or neglect investigation (except as permitted in Section 431.60 above for

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

purposes of conducting an administrative hearing), an adoptive investigation, a licensing investigation, or a study in preparation for a dispositional order under the Juvenile Court Act of 1987 if the information was given before or after the effective date of these rules under the express or implied promise that the identity of the information source would be held in confidence.

## c) Information to Locate a Child

An individual may be denied access to information which would allow that person ~~cause--him~~ to determine the physical location of a child who ~~which~~ was removed from the individual's ~~his~~ custody in accordance with the Juvenile Court Act of 1987. This information shall be denied only if:

- 1) there is reasonable cause to believe that the child, foster parents or others caring for the child will be in danger if the child's whereabouts were known; or
- 2) the individual is likely to remove the child from the jurisdiction of the court.

## d) Confidential Information About a Minor

The Department shall not release the following information without the consent of the minor:

- 1) information given to the Department by minors under the Department's assurance of confidentiality; and
- 2) information about a minor's consent to his or her ~~their~~ own or his or her children's medical care.

(Source: Amended at 19 Ill. Reg.  
— **DEC 15 1995** —) **17089**, effective

**Section 431.80 Disclosure of Records of Child Abuse and Neglect Investigations**

Record information about child abuse and neglect investigations may be shared with the following individuals without the consent of the subjects of the report.

- a) Department staff in the furtherance of their responsibilities under the Abused and Neglected Child Reporting Act or for the purpose of completing background investigations on persons or agencies licensed by the Department or through whom the Department provides child welfare or day care services, and on court appointed special advocates, or for purposes of an investigation conducted by the DCFS-Office of the Inspector General under Section 35.5 of the Children and Family Services Act;

- b) Department and purchase of service provider staff assessing children and families in which abuse or neglect has occurred or providing services to these children and families;

- c) Department staff verifying whether a child care facility subject to Department licensing is owned or operated by known perpetrators of child abuse or neglect or whether adult members of the household of a family home in which a child care facility operates, or employees of





## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 2) Persons Who Have Subpoenas or Other Court Orders
- A) The Department shall disclose personal information when ordered to do so by a court order. The Department shall make a good faith effort to notify the person whose records are the subject of the order that the order exists and the nature of the proceedings, unless specifically ordered by the court to not contact the subjects. The Department shall notify the court or the person obtaining the court order of the confidential nature of the information and its policies regarding personal information. In addition, the Department may take any appropriate legal actions to limit or quash the court order.
- B) In the event that a subpoena has been issued by a court, the Department shall make a good faith effort to contact the subject of the order as explained in the subsection above. If a subpoena is issued by a Clerk of the Court without any judicial involvement, the Department shall notify the person who had the subpoena issued of its policies regarding personal information and shall make a good faith effort to promptly notify the person whose information is the subject of the subpoena. The Department shall not release the information for 14 days following the receipt of the subpoena unless the person consents to the release of the records or an earlier, reasonable return date is provided in the subpoena. After 14 days have passed from the receipt of the subpoena, the Department shall release the information if releasing it is consistent with the best interests of the child ~~child's safety and well-being~~.
- C) When a person served by the Department is engaged in litigation against the Department, the Department shall release personal information concerning that individual or his children which is subject to discovery under the laws of the State of Illinois ~~to him or his attorney~~.
- 3) Legislators
- Only the Director of the Department shall authorize the release of the contents of case records to the Illinois legislature or committees or commissions thereof. Individual legislators shall not have access to case records unless they are acting under the authority given them by the law.
- 4) Professionals or Other Service Providers
- Persons receiving services from the Department or its contractual agencies are to be informed that personal information (other than mental health information) may be shared without their consent with other service providers when it is necessary for the proper provision of services or the establishment of paternity or support for a dependent minor.
- A) With the exception of mental health records, as provided for in Section 431.100 ~~431.7~~, personal information may be

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- released by any Department employees ~~employee~~ acting within their ~~his~~ official capacity ~~to the agency designated by the Governor for administering the protection and advocacy system for mentally ill persons in accordance with the provisions of the AN Act for the protection and advocacy of mentally ill persons (111 Rev. Stat. 1987, Ch. 91-1/2, par. 131-1 et seq.) and to psychiatrists, psychologists, physicians, doctors, social workers, other employees, volunteers, homemakers, contractors with the Department, social service agencies, foster parents, child care facilities and others providing services to persons served by the Department when such information is necessary for the proper administration of the programs of the Department or the proper delivery of services to the persons served by the Department.~~
- B) The Department, in releasing personal information, will limit the information released to that which is necessary to properly provide the service. The person(s) receiving the information shall be notified by the Department that the information is confidential and that the information is not to be further released except as is necessary for the proper delivery of service.
- C) Release of mental health materials must be made in conformity with the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110].
- D) Department employees may release personal information needed to establish paternity or support for a dependent child or relative.
- 5) Court Appointed Special Advocates
- Court appointed special advocates may attend the child's portion of administrative case reviews involving children for whom they are appointed as advocates and may review documents directly related to delivery of child welfare services which are in the best interests of such minor. However, court appointed special advocates are not allowed access to mental health or drug or alcohol assessment and treatment records, confidential medical records, or records of child abuse or neglect reports and investigations and may attend the parent's portion of the administrative case review only with the permission of the parents or their authorized representative.
- 6) Research Purposes
- The release of personal information for research purposes to any source outside the agency shall only be allowed within the discretion of the Director of the Department or designee upon express written consent. The researcher shall ensure, in writing, the confidentiality of identifying information. The researcher shall not release any identifying information without the express written permission of the Director.



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

7) DCFS-Office of the Inspector General  
Personal information shall be released to the DCFS-Office of the  
Inspector General when the records are pertinent to an  
investigation authorized under Section 35.5 of the Children and  
Family Services Act [20 ILCS 505/35.5] and involves allegations  
or incidents of possible misconduct, misfeasance, malfeasance, or  
violations of rules, procedures, or laws.

8) Protection and Advocacy for Mentally Ill Persons  
Personal information, with the exception of mental health  
information, may be released to the agency designated by the  
Governor for administering the protection and advocacy system for  
mentally ill persons, in accordance with the provisions of the  
Protection and Advocacy for Mentally Ill Persons Act [405 ILCS  
45].

9) 5) Others Not Cited Above

Personal information may be released for the purposes and to  
persons other than those listed in these rules upon the written  
authorization of the Director when such authorization is not  
prohibited by state or federal law or regulation or rule.

## b) Responses to Requests for Information

## 1) Written Requests

A) The Department shall accept written requests for the  
disclosure of personal information without the consent of  
the concerned individuals only when the requestor has  
provided a notary public's attestation as to his identity  
and has included the names of the individuals about whom the  
information is requested. Information shall only be  
released in compliance with this Part.

B) The Department will provide a written response to each  
written request via certified mail deliverable only to the  
requestor.

## 2) Telephone Requests

A) The Department shall accept telephone requests for child  
abuse and neglect information only when the request comes  
from Department staff investigating a report of child abuse  
or neglect, law enforcement officials investigating a report  
of child abuse or neglect or determining whether a child  
should be taken into temporary child protective custody,  
physicians examining a child and the information is needed  
to determine whether a child is abused or neglected or to  
determine whether a child should be taken into temporary  
protective custody, and out-of-state agencies involved in a  
child abuse or neglect report.

B) The Department shall accept telephone requests for other  
personal information without the consent of the concerned  
individuals only if the requesting person or agency is  
authorized by the rules in this Part to receive the  
information which they are requesting.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

C) The Department shall not provide information to unknown  
requestors at the time of the initial inquiry. Instead,  
Department staff shall obtain the requestor's name, type of  
business, an official business phone number through which  
his identity and authority to receive the information can be  
verified, and the phone number at his current location. The  
Department shall verify the requestor's identity and  
authority to receive the information by checking an official  
telephone listing or checking with a third party at the  
business office.

## 3) In-Person Requests

A) The Department shall accept in-person requests for the  
disclosure of personal information without the consent of  
the concerned individuals only when the requestors produce  
positive identification and proof of their legal authority  
to receive the requested information.

B) The Department will recognize only those guardians,  
custodians, court appointed special advocates or guardians  
ad litem who produce a court order appointing them to their  
positions. The Department will recognize only those  
attorneys or personal representatives who produce a written  
consent to release the requested information. The consent  
must be signed by the concerned individual and it must be  
notarized.

(Source: Amended at 19 Ill. Reg. 17088 effective  
Nov 15 1985)

## Section 431.100 Disclosure of Information of a Mental Health Nature

Release of and access to clinical, social work, psychological, psychiatric or  
other information of a mental health nature shall be governed by Section 4 of  
the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS  
110/4]. Significant portions of that Act are as follows:

a) The following persons shall be entitled, upon request, to inspect and  
copy a recipient's record or any part thereof:

1) the parent or guardian of a recipient who is under 12 years of  
age;

2) the recipient if he is 12 years of age or older;

3) another person on such recipient's behalf--if--the--recipient--so  
authorizes-in-writing;

3) 4) the parent or guardian of a recipient who is at least 12 but  
under 18 years, if the recipient is informed and does not object  
or if the therapist does not find that there are compelling  
reasons for denying such access. The parent or guardian who is  
denied access by either the recipient or the therapist may  
petition a court for access to the record;--or

4) 5) the guardian of a recipient who is 18 years or older; or



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 5) an attorney or guardian ad litem who represents a minor 12 years of age or older in any judicial or administrative proceeding, provided that the court or administrative hearing officer has entered an order granting the attorney this right.
- b) Except as otherwise provided in the Mental Health and Developmental Disabilities Confidentiality (MH/DD) Act [740 ILCS 110], records and communications as defined in that Act ~~that~~ that ~~Rev-Stat-1987-ch-91-1/2-part-802~~ may be disclosed only with the written consent of the persons identified in subsection (a) above.
- 1) the parent or guardian of a recipient who is under 12 years;
- 2) both the parent or guardian of a recipient who is at least 12 but under 18 years and the recipient; if only the recipient refuses to consent there shall be no disclosure unless the therapist finds that such disclosure is in the best interests of such recipient; if the parent or guardian refuses to consent to disclosure shall not be made except to an attorney appointed to represent the minor recipient or requested by the minor recipient in writing to represent him or her; or
- 3) has been adjudicated incompetent.
- c) Information disclosed with the written consent of those described in subsection (a) ~~subsections (b) through (f)~~ above may not be redisclosed to any other person without the express written consent of those described in subsection (a) above ~~subsections (b) through (f)~~. Those persons authorized to give consent may revoke their consent at any time.
- d) Where the Department has legal guardianship of a child under 12 years, the Department may deny access of the biological ~~natural~~ parents to information pertaining to the child's mental health only if two (2) professional social workers (Master of Social Work degree) employed by the Department certify in writing that denial of such access is in the best interests interest of the child and/or parents.

(Source: Amended at 19 Ill. Reg. **17089** effective  
— **DEC 15 1995** —)

### Section 431.110 Disclosure of Information Regarding Acquired Immunodeficiency Syndrome (AIDS)

- a) The Department shall be informed of the results of Human Immunodeficiency Virus (HIV) tests performed on and of all diagnoses of AIDS Related-Complex (ARC) or Acquired Immunodeficiency Syndrome (AIDS), as defined in Public Health rules, 77 Ill. Adm. Code 697, (AIDS Confidentiality and Testing Code), for children for whom the Department is legally responsible.
- b) The Department shall release information on children for whom it is legally responsible regarding HIV test results, diagnoses of ARC or AIDS to the child's legal parents and to persons who have the need to

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

know such information. The categories of persons who have a need to know this information about a child are as follows:

1) those persons who supervise or provide direct care to the child such as:

- A) foster parents,  
B) relative caretakers,  
C) directors or operators of child care facilities, such as group homes, child care institutions, child welfare agencies, state operated facilities, day care homes, day care centers and the personnel of such facilities;
- i) who provide direct care for a child by feeding, diapering, or handling blood or bodily fluids; or
- ii) who provide direct care to a child who bites, spits, has a bleeding problem such as nose bleeds or hemophilia or who cannot control normal bodily functions;
- 2) physicians, nurses, dentists and other medical providers who will be providing direct care to the child;
- 3) other persons who provide direct care for a child for whom the information is necessary in order to provide Department approved services for the child, i.e., advocates and counselors; or
- 4) prospective adoptive parents who have been licensed under 89 Ill. Adm. Code 402, who are willing to adopt a child with a terminal illness, and who have demonstrated an interest in a specific child who has tested positive for HIV infection or who has been diagnosed with ARC or AIDS.

- c) Persons to whom the Department has released information regarding HIV test results, diagnoses of ARC or AIDS, shall keep this information confidential in accordance with the provisions of the AIDS Confidentiality Act [410 ILCS 305] ~~that~~ that ~~Rev-Stat-1987-ch-111-1/2-part-730-1-et-seq~~ and the AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697). Such information shall not be disclosed to other persons except as authorized by the Department in accordance with subsection (b). Such authorization shall be signed by the Department's Guardianship Administrator or designee as defined by 89 Ill. Adm. Code 327.2 and shall contain the names and respective positions of those individuals to whom the information will be disclosed.

(Source: Amended at 19 Ill. Reg. **17089**, effective  
— **DEC 15 1995** —)

### Section 431.120 Removal of Records Prohibited

Records of the Department may not be removed from Departmental facilities by non-Departmental staff, except as provided in Section 431.130, but may be photocopied. The Department may charge for the cost of reproducing said records at the rate established in 2 Ill. Adm. Code 775, Public Information,

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Rulemaking, and Organization.

(Source: Amended at 19 Ill. Reg. 17089 effective  
- DEC 15 1995)

**Section 431.130 Impoundment of Records by the Office of the Inspector General  
Release-of-Personal-Information-for-Research-Purposes**

a) The Office of the Inspector General of the Department, pursuant to Public Act 88-7, may impound records, files, documents and papers from any Department office, facility, foster home or facility or program operated for or licensed by the Department which are pertinent to an investigation authorized under Section 35.5 of the Children and Family Services Act [20 ILCS 505/35.5].

b) During business hours an Office of the Inspector General investigator may impound records pertinent to an investigation of allegations or incidents of possible misconduct, misfeasance, malfeasance, or violations of rules, procedures, or laws by means of an unannounced visit to the facility, home or program. If it is necessary to impound records after business hours, the investigator may access a Department facility, home or program by contacting the Department administrator designated by the Director. If the investigator must gain access to a private agency facility, home or program, the investigator may do so by contacting the private agency administrator responsible for the facility, home or program.

c) If records are sought from a foster home, the Office of the Inspector General investigator shall seek the consent of and voluntary disclosure by the foster parent prior to impounding any records from the home. All consents shall be in writing.

d) The Office of Inspector General investigator will impound the original of any record, file, document or paper necessary for the investigation. The office, facility, foster home, or program may make photocopies of the original file in the presence of the investigator for purposes of creating a working file that remains at the office, facility, foster home, or program during the pendency of the investigation. The private agency director or DCFS office or facility administrator or their designees shall ensure that the impounded file contains all relevant documents in existence at the time of impoundment. Any original documents received or created after impoundment of the record will be maintained in a designated folder marked "Original". The working file shall be kept separate from the original file.

e) The investigator will return all impounded documents upon completion of the investigation or any subsequent proceedings resulting from the investigation, but may retain copies of the documents for the investigative file. Copies of impounded documents pertinent to the findings of the investigation will be retained for a minimum of ten years.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

f) All evidence or files should be impounded and maintained in a manner to preserve evidence for possible criminal and quasi-criminal prosecutions with respect to both the subjects of Office of Inspector General investigations and the subjects of the original Department investigations.

~~the release of personal information for research purposes to any source outside the agency shall only be allowed within the discretion of the Director of the Department or designee upon express written consent. The researcher shall ensure in writing of the confidentiality of individuality identifying information. The researcher shall not release any identifying information without the express written permission of the Director.~~

(Source: Amended at 19 Ill. Reg. 17089, effective  
- DEC 15 1995)

**Section 431.140 Applicability of This Part**

This Part shall apply to personal information contained in all closed, active and future records of the Department, regardless of whether they are maintained in written, microfilm, or electronic storage.

(Source: Amended at 19 Ill. Reg. 17089, effective  
- DEC 15 1995)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Telecommunications for the Hearing and Voice Impaired2) Code Citation: 83 Ill. Adm. Code 7553) Section Numbers:      Adopted Action:

755.10	Amendment
755.15	Amendment
755.20	Repealed
755.25	Repealed
755.105	Amendment
755.110	Amendment
755.115	Amendment
755.120	Amendment
755.125	Amendment
755.126	New Section
755.130	Amendment
755.135	Amendment
755.145	Amendment
755.200	Amendment
755.205	Amendment
755.210	Amendment
755.220	Amendment
755.225	Amendment
755.305	Amendment
755.400	Amendment
755.405	Amendment
755.500	Amendment
755.505	Amendment
755.515	Amendment
EXHIBIT A	Amendment
EXHIBIT B	Amendment
EXHIBIT C	Amendment
EXHIBIT D	Amendment
EXHIBIT E	Amendment
EXHIBIT F	New Section
EXHIBIT G	Relettered; amendment
EXHIBIT H	Relettered; amendment
EXHIBIT I	Relettered; amendment
EXHIBIT J	Relettered; amendment
EXHIBIT K	Relettered; amendment
EXHIBIT L	Relettered; amendment
EXHIBIT M	Relettered; amendment
EXHIBIT N	Relettered; amendment
EXHIBIT N	Repealed

4) Statutory Authority: Implementing Section 13-703 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-703 and 10-101].

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

5) Effective Date of Rulemaking: January 1, 19966) Does this rulemaking contain an automatic repeal date? No7) Does this rulemaking contain incorporations by reference? Yes, JCAR approval not necessary.8) Date Filed in Agency's Principal Office: December 6, 19959) Notice of Proposal Published in Illinois Register:

July 28, 1995, at 19 Ill. Reg. 10888.

10) Has JCAR issued a Statement of Objections to these rules? No11) Difference(s) between proposal and final version:

Section 755.205(a) and (b): change "subsection (f)" to "subsections (f) and (g)".

Section 755.205(f): add "or TT with LVD" after "set".

Section 755.205: add new subsection (g).

Section 755.515(b): change "these Sections" to "those Sections".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes13) Will this rulemaking replace an emergency rule currently in effect? No14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Part 755 sets out general standards governing the State of Illinois' text telephone ("TT", "TTY" or "TDD") distribution program to the hearing and voice impaired and the obligations of Local Exchange Carriers ("LECs") under this program. The Commission's authority to implement this distribution program is derived from Section 13-703 of the Public Utilities Act ("Act"). The present rulemaking to amend this Part was undertaken in response to the Americans with Disabilities Act of 1990 and in response to the passage of P.A. 88-497, effective September 13, 1993. P.A. 88-497 modified Section 13-703 of the Act by changing the requirements for organizations eligible to receive TTS under the program and by extending program participation to include mutual telephone companies.

16) Information and questions regarding these adopted amendments shall be directed to:



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

Name: Conrad Rubinkowski  
Address: Illinois Commerce Commission  
527 East Capitol Avenue  
P.O. Box 19280  
Springfield, IL 62794-9280  
Telephone: (217)785-8439

The full text of the Adopted Amendment begins on the next page:

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER f: TELEPHONE UTILITIES

## PART 755

TELECOMMUNICATIONS ACCESS FOR PERSONS WITH DISABILITIES THE HEARING-AND  
VOICE-IMPAIRED

## SUBPART A: GENERAL PROVISIONS

Section	
755.10	Definitions
755.15	Dispute Procedures
755.20	Notice (Repealed)
755.25	Deviations (Repealed)

## SUBPART B: LEC OBLIGATIONS

Section	
755.100	Components of ITAP Services
755.105	Execution and Administration of ITAP
755.110	Publicity Concerning ITAP
755.115	Application Procedure and Processing
755.120	Equipment Set Specifications - <del>TT 999</del>
755.125	Equipment Set Specifications - Telebraille
755.126	Equipment Set Specifications - Text Telephone with LVD
755.130	Bids
755.135	ITAP Filing Requirements
755.145	Renewal of Agreements

## SUBPART C: ELIGIBILITY AND PARTICIPATION

Section	
755.200	Disability Impaired Certification
755.205	Eligibility and Application for Equipment Sets for Residents
755.210	Subscriber Units Which are Residential
755.220	Eligibility and Application for Equipment Sets for Organizations
755.225	Subscriber Units Which are Statewide Organizations
755.230	Time Period for Possession
	Shared Residence
	Change of Address

## SUBPART D: POSSESSION AND MAINTENANCE

Section	
755.300	Equipment Ownership and Liability
755.305	Recipient Responsibility
755.310	Responsibility for Maintenance

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

## SUBPART E: OVERSIGHT AND REVIEW

Section  
755.400  
755.405  
755.410  
755.415

Staff Liaison  
Advisory Council  
Advisory Council Rights  
Biannual Workshop

## SUBPART F: LINE CHARGE ADJUSTMENT MECHANISM

Section  
755.500  
755.505  
  
755.510  
755.515  
755.520  
755.525

Annual Filings  
Local Exchange and Inter-Exchange Carrier Reports and Remittances to ITAC  
Determination and Adjustment of the Line Charge  
Notice and Filing Requirements  
Interim Line Charge Adjustments  
Waiver of Requirements of Section 755.500

## EXHIBIT A

Calculation of Monthly Line Charge (Schedule A-1)

## EXHIBIT B

Comparison of Present and Proposed Line Charges (Schedule A-2)

## EXHIBIT C

Projection Period Statement of Revenues and Expenses at Present

## EXHIBIT D

Line Charge, As Adjusted (Schedule A-3)

## EXHIBIT E

Prior Calendar Year Actual Revenues Over/(Under) Expenses (Schedule A-4)

## EXHIBIT F

Schedule of Adjustment to Projected Cash Balance (Schedule A-5)

## EXHIBIT G

Supporting Schedule of Planned Capital Expenditures During Projection Period (Schedule A-6)

## EXHIBIT H

Schedule of Projected Increase to Cash Under Proposed Line Charge Before Cash Adjustment (Schedule A-7)

## EXHIBIT I

Call Volumes and Subscriber Lines (Schedule A-8)

## EXHIBIT J

Depreciation Schedule (Schedule A-9)

## EXHIBIT K

Projected Payroll Expenses, As Adjusted (Other than TRS BPRS Payroll Expenses) (Schedule A-10)

## EXHIBIT L

Projected Line Charge Filing Expenses (Schedule A-11)

## EXHIBIT M

Comparative Actual and Projected Balance Sheets, At Proposed Line Charge, As Adjusted (Schedule A-12)

## EXHIBIT N

Comparative Actual and Projected Statements of Revenues and Expenses at Proposed Line Charge, As Adjusted (Schedule A-13)

## EXHIBIT O

Local Exchange Carrier Monthly Report to ITAC

## EXHIBIT P

Inter-Exchange Carrier Monthly Remittance Report to ITAC (Repealed)

AUTHORITY: Implementing Section 13-703 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-703 and 10-101].

SOURCE: Adopted at 12 Ill. Reg. 3687, effective February 1, 1988; amended at 14 Ill. Reg. 3042, effective February 15, 1990; emergency amendment at 14 Ill.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

Reg. 19375, effective November 25, 1990, for a maximum of 150 days; amended at 15 Ill. Reg. 5624, effective April 15, 1991; amended at 17 Ill. Reg. 5594, effective March 31, 1993; amended at 19 Ill. Reg. 17105, effective      JAN 01 1995     .

## SUBPART A: GENERAL PROVISIONS

## Section 755.10 Definitions

"Act" means the Public Utilities Act (111--Rev--Stat--1991--ch--111-3/37--pars--1-101-et-seq) [220 ILCS 5/1-101-et-seq].

"Centers for independent living" means organizations serving the needs of those persons with hearing or speech disabilities as described in Section 12a of the Disabled Persons Rehabilitation Act [20 ILCS 2405/12a].

"Commission" means the Illinois Commerce Commission.

"Deaf-blind" refers to a person who is deaf or hard-of-hearing and deaf-or-severely-hearing-impaired-person who is also has a sight-disability impaired and who can regularly and routinely communicate by telephone only through the aid of a telebraille device or TT with LVD.

"Deaf or hard-of-hearing severely-hearing-impaired" refers to a condition of person-with-a permanent hearing loss by which regular who can-regularly and routine routinely-communicate-by telephone communication is possible only through the aid of devices which can send and receive written messages over the telephone network.

"Disability" refers to a condition of being permanently hearing, deaf-blind, speech, or speech-sight disabled.

"Dual-party-relay-service-call-volumes" means all-illinois--intrastate calls--placed--through--the--illinois--Relay--Center--whether--or--not completed.

"Equipment set" means the telecommunications--Device--for--the--Deaf (1990) Text Telephone ("TT"), telebraille device, or TT with LVD, and all of its components and support equipment (except paper rolls) as described in Sections 755.120, 755.125, and 755.126, provided under Sections 755.205 and 755.210 of this Part provided-to-a-subscriber-unit under-this-program--or-a-telebraille-device--all-of-its-components-and support-equipment-provided-to-a-subscriber-unit-under-this-program.

"Hearing disability" refers to condition of being permanently deaf or hard-of-hearing.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

"Illinois Telecommunications Access Corporation," or "ITAC," means the not-for-profit corporation jointly established by Illinois local exchange carriers pursuant to Section 755.105 to administer programs mandated by Section 13-703 of the Act.

"Impaired" means deaf-blind, deaf, or severely hearing-impaired, voice-impaired, or voice-impaired-blind as defined in this Section.

"ITAP" or "Program" means the Illinois Telecommunications Access Program, by which Illinois local exchange carriers shall provide the telecommunications devices capable of servicing the needs of subscribers with disabilities impaired-subscribers as required by Section 13-703 of the Act.

"LBC" or means "local exchange carrier" means--which--is a telecommunications carrier providing local exchange telecommunications service as defined in Section 13-204 of the Act. For purposes of this part, "LBC" or "local exchange carrier" also includes telecommunications carriers that are mutual concerns as defined in Section 13-202(b) of the Act.

"Line charge" means the charge authorized by Section 13-703(c) of the Act.

"LVD" or "Large visual display" is a device that, when connected to a TT, displays the text in a large moving lighted print.

"Organizations" or--"statewide--organizations" means centers for independent living and those Illinois-based not-for-profit organizations not owned or operated by any political subdivision, public institution of higher learning, state agency, or municipal corporation of this State whose primary purpose is serving the needs of those persons with disabilities. which represent the--impaired--and which are not--limited--to a particular geographic area within the state and which are available to the impaired throughout the State.

"Projection period" means, for each annual filing required by Subpart F, a 12-month period beginning January 1 of the year in which the filing is made.

"Recipient" is a the user or a the parent or legal guardian of a minor user in whose name an equipment set is granted, as provided in Section 755.205(b).

"Sight disability" refers to condition of permanent loss of sight by which regular and routine telephone communication is possible only through the aid of a telebraille device or TT with LVD.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

"Social service agencies" means the Illinois Department of Rehabilitation Services, Department on Aging, Department of Public Aid, Department of Public Health, Department of Children and Family Services, the State Board of Education, and the University of Illinois Division of Specialized Care for Services-for-Deaf-Children.

"Speech-disability" refers to a condition of permanent speech disability that precludes oral communication by which regular and routine telephone communication is possible only through the aid of devices which can send and receive written messages over the telephone network.

"Speech-sight disability" refers to a condition of permanent speech and sight disability that precludes oral communication, and by which regular and routine telephone communication is possible only through the aid of a telebraille device or TT with LVD.

"Staff" means individuals employed by the Illinois Commerce Commission.

"Subscriber lines" means access lines of--local--exchange--carriers subject--to--the-jurisdiction--of--the--Commission, as defined in 83 Ill. Adm. Code 730.105, of LECs as defined in this part, but shall not include Feature Groups A, B, C and D access lines, 800 lines or access lines used for official communications of telecommunications carriers providing local exchange service. In calculating subscriber lines, each centrex line shall be equivalent to one-tenth of a residence or business access line.

"Subscriber-unit" is a single address which receives--basic--telephone service--and--is--subject--to a monthly service charge for each access time

"TDD" means--"telecommunications device for the deaf"--a device--which allows--impaired persons to send and receive written messages over the telephone network.

"Telebraille device" is a TT TDD which employs braille language symbols.

"Telecommunications relay services (TRS)" or "Relay service call volumes" means all Illinois intrastate calls placed through the Illinois Relay Center, whether or not completed.

"TT" means text telephone, a device which employs graphic communication in the transmission of coded signals through a wire or radio communications system.



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

"User" means an Illinois resident with a disability whose eligibility has been established as provided in this Part ~~an impaired person within a subscriber unit for whose use an the equipment set is provided, as set forth in Section 755.205. There may be multiple users per subscriber unit.~~

"voice-impaired" means a person with a permanent speech disability which precludes oral communication who can regularly and routinely communicate by telephone only through the aid of devices which can send or receive written messages over the telephone network.

"voice-impaired-blind" means a voice-impaired person who is also sight-impaired.

(Source: Amended <sup>t</sup> 19 Ill. Reg. 17105 <sup>1</sup>, effective  
JAN 01 1995)

## Section 755.15 Dispute Procedures

- a) If there is a problem with an equipment set:
- 1) the Regional Center that distributed the equipment set should be contacted;
  - 2) if the problem cannot be resolved at the Regional Center, then the ITAP office should be contacted; and
  - 3) if the ITAP office cannot satisfactorily resolve the problem, they shall inform the user of the address and telephone number of the Commission and the information contained in Section 755.410(b).
- b) After receiving the complaint, the Commission will begin an informal investigation in an effort to settle the dispute.
- c) Disputes arising under this Part shall also be governed by 83 Ill. Adm. Code 735.190 and 735.200.

(Source: Amended at 19 Ill. Reg. 17105 <sup>1</sup>, effective  
JAN 01 1995)

## Section 755.20 Notice (Repealed)

Unless otherwise indicated, "notice" means notice within 30 days of the event for which notice is required. Notice shall be given in writing or by TDD. Notice given by TDD shall be subject to hard-copy recovery by and at the discretion of the receiver except that an BBE shall mail a Braille copy of any notice to a telebraille recipient within 48 hours of the original telebraille transmission of the notice.

(Source: Repealed at 19 Ill. Reg. 17105 <sup>1</sup>, effective  
JAN 01 1995)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

## Section 755.25 Deviations (Repealed)

If a BBE determines justification exists for deviation from conditions of Sections 755.110 and 755.115(c) and (d) of this Part in any particular case, a petition may be filed setting forth a full statement of such conditions and the reasons and purpose of such proposed deviation. The Commission shall allow such deviation for a period of up to one year if the deviation will not endanger the provision of telephone service to the impaired, as intended by Section 13-703 of the Act.

(Source: Repealed at 19 Ill. Reg. 17105 <sup>1</sup>, effective  
JAN 01 1995)

## SUBPART B: LEC OBLIGATIONS

## Section 755.105 Execution and Administration of ITAP

- a) The charge per month per subscriber line, allowed by Section 13-703(c) of the Act and ordered by the Commission, shall be collected by the LECs BBEs from their customers. The charge applies to all subscriber lines.
- b) The LECs BBEs shall be reimbursed for all start up and ongoing expenses associated with the administration of the customer charge per line per month and the establishment, execution and administration of ITAP. Such costs shall include but not be limited to those expenses involving
- 1) Customer notification;
  - 2) Customer billing;
  - 3) Accounting and tax administration;
  - 4) Auditing and reporting;
  - 5) Taxes;
  - 6) Franchise fees;
  - 7) Uncollectables; and
  - 8) LEC staff assignments.
- c) The LECs BBEs may make voluntary or contractual agreements with businesses, agencies of local, state, or Federal government, organizations, and other third parties for provision or distribution of equipment, maintenance, warehousing, training, administration, or miscellaneous supports services as required to fulfill the goals of this program in a manner consistent with the intent and provisions of the Act and this Part.
- d) The LECs BBEs shall administer the ITAP so as to take full advantage of any economies of scale that may exist by centralizing the provision of ITAP services listed in Section 755.100. However, the LECs BBEs shall provide sufficient regional centers to insure a reasonable access to ITAP by persons with disabilities the impaired.
- e) The LECs BBEs may determine and propose to the Commission for approval, subject to the requirements of Section 7-101 and 7-102 of

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- 2) An eligibility form to be filled out according to the provisions of Section 755.200 of this Part, certifying the ~~applicant user's~~ as a person with a disability ~~impaired~~. Printed on the eligibility form shall be an explanation of its purpose, the definitions of disability ~~deaf-or-severely-hearing-impaired~~ ~~deaf-blind~~, ~~voice-impaired~~, ~~and~~ ~~voice-impaired-blind~~ contained in Section 755.10 of this Part and the certification requirements of Section 755.200.

- 3) A form for the recipient to sign indicating that the recipient understands and agrees with the rights and obligations created for the recipient under this Part, and that the recipient desires service under this Part.

- 4) A standard application form requiring:
- The address and telephone number of the recipient's residence ~~subscriber-unit~~; and

- The full name ~~names~~ and ~~age~~ ~~ages~~ of the recipient ~~all-users~~ ~~within-the-subscriber-unit~~; and the name of the person to whom telephone service is billed.

- 5) A form for the recipient to sign indicating that if the recipient is acting for a minor user, the equipment set received under this program will be transferred to the user on the user's eighteenth birthday.

- LECs ~~BREs~~ will provide assistance in completing application forms to those who desire assistance at regional maintenance/training centers.
- Applicants shall complete (or have completed) all forms, attach all necessary documentation, and mail the completed application packet as directed by the LEC.

- Upon receipt of completed application packets, the LEC shall acknowledge by postcard (stamped and addressed by applicant) and process all applications. In no event shall the LEC take more than 21 calendar days to verify an applicant's eligibility. If the LEC determines that it cannot make a decision within 21 days because the application is incomplete or contains inaccurate information, it must immediately notify the applicant upon making this determination and solicit clarification and additional information from the applicant in order to determine the applicant's eligibility. The LEC shall file a quarterly report with the Commission detailing applications that required more than 21 days to process.

- Processing of applications by LECs ~~BREs~~ shall consist of a review for completeness and the assignment of priority status for distribution in the order of receipt of the completed applications.

(Source: Amended at 19 Ill. Reg. 17105, effective JAN 1 1995)

Section 755.120 Equipment Set Specifications - ~~TT~~ ~~WB~~

~~TT~~ ~~WB~~ equipment sets shall include the following equipment and features:

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

the Act ~~111-Rev-Stat-1991-2-3-per-7-101-end-7-102~~ [220 ILCS 5/7-101 and 7-102], a plan for joint execution and administration of ITAP.

(Source: ~~JAN 1 1995~~ 19 Ill. Reg. 17105, effective JAN 1 1995)

## Section 755.110 Publicity Concerning ITAP

- a) LECs ~~BREs~~ shall publicize ITAP. Publicity shall include, but not be limited to:

- Bill inserts and notices published in the directories;
- Written notification to conventional media such as daily, weekly, and monthly newspapers or magazines and the news departments of television and radio stations;

- Written notification to organizations and to newsletters serving persons with disabilities. ~~the-impaired~~ Organizations and newsletters wishing to receive such notification must contact the LECs ~~BREs~~ and place themselves on an ITAP information service list; and

- Written notification to designated offices of State of Illinois social service agencies. The LECs ~~BREs~~ shall obtain a list of designated offices from each of the social service agencies listed in this Part.

- b) Information to be provided shall include at a minimum the services offered, descriptions of the intended recipients of these services, and the terms under which these services are available.

(Source: Amended at 19 Ill. Reg. 17105, effective JAN 1 1995)

## Section 755.115 Application Procedure and Processing

- a) Application packets shall be made available to the public by mail, at all regional maintenance/training centers, and at designated offices of State of Illinois social service agencies, as identified in Section 755.110(a)(4). The application packets shall contain:

- A brochure which contains:
  - A description of the obligations of the LEC to the recipient;
  - A description of the rights and obligations of the recipient under ITAP;
  - A description of the application process for service under this Part;
  - A description of the Advisory Council and its role as liaison to persons with disabilities ~~the-impaired-community~~; and
- The office telephone number of the Staff Liaison.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- a) Keyboard send;  
 b) Large size, 20 character minimum LED display;  
 c) Baudot 5 level code and ASCII code capability;  
 d) Built-in modem and acoustical coupler;  
 e) Portability;  
 f) Carrying case;  
 g) Alternate A.C. power and self-contained, user-replaceable, rechargeable battery pack (initial battery pack provided with equipment and subsequent replacement to be provided at his/her expense);  
 h) One remote signalling device which will turn on a lamp or some other appliance to signal a person with a hearing disability ~~deaf-person~~ of incoming calls. The signalling device should be capable of activating other remote signals which the recipient may add at his/her option and expense;  
 i) Built-in printer and an initial roll of printer paper (subsequent rolls to be supplied by the recipient at his/her expense);  
 j) High level of reliability and durability. ~~TT TBB~~ and remote signalling device must come with at least a one-year full warranty;  
 k) A visible serial number permanently affixed to the chassis;  
 l) All equipment provided under this program shall meet all applicable requirements for registration with the Federal Communications Commission under 47 CFR 68 as of October 1, 1994 ~~1987~~. No later amendment or edition is incorporated; and  
 m) A voice announcer. ~~A-label-on-the-space-bar-indicating-that-it-should be-used-when-calling-an-emergency-service-number.~~

(Source: Amended at 19 Ill. Reg. 17105, effective JAN 01 1995)

## Section 755.125 Equipment Set Specifications - Telebraille

Telebraille equipment sets shall include the following equipment and features:

- a) Braille keyboard;  
 b) 20 character Braille display;  
 c) Baudot 5 level code and ASCII code capability;  
 d) Built-in modem and acoustical coupler;  
 e) Portability;  
 f) Carrying case;  
 g) Alternate A.C. power and self-contained, user-replaceable, rechargeable battery pack (initial battery pack to be provided with equipment and subsequent replacement to be provided by the recipient at his/her expense);  
 h) One remote signalling device which the person with a hearing and sight disability ~~the-deaf-blind-user~~ wears or carries on his/her person and which vibrates when the phone is ringing;  
 i) High level of reliability and durability. Telebraille and remote signalling devices shall come with at least a one-year full warranty;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- j) A visible serial number permanently affixed to the chassis;  
 k) All equipment provided under this program shall meet all applicable requirements for registration with the Federal Communications Commission under 47 CFR 68 as of October 1, 1994~~1987~~. No further amendment or edition is incorporated; and  
 l) A voice announcer. ~~A-label-on-the-space-bar-indicating-in-Braille-that it-should-be-used-when-calling-an-emergency-service-number.~~  
 (Source: Amended at 19 Ill. Reg. 17105, effective JAN 01 1995)

## Section 755.126 Equipment Set Specifications - Text Telephone with LVD

A text telephone with LVD shall meet the specifications for TT as prescribed in Section 755.120 and the following:

- a) Large display showing characters in bold type;  
 b) An option of lens colors for display;  
 c) High level of reliability and durability. LVD shall come with at least a one-year full warranty; and  
 d) A visible serial number permanently affixed to the LVD chassis.

(Source: Added at 19 Ill. Reg. 17105, effective JAN 01 1995)

## Section 755.130 Bids

- a) Prior to entering into agreements contemplated by Section 755.135(b) ~~755.105(e)~~, the ~~LECs~~ ~~BEC's~~ shall solicit and accept bids from various providers.  
 b) Bids will be evaluated and awarded based upon the bidder's ability, as demonstrated in the bid proposal, to advance the goals and objectives of ITAP, consistent with the criteria listed below:  
 1) Corporate and fiscal integrity, history, and ability of the bidder to deliver equipment or services up for bid;  
 2) Equipment up for bid must meet the minimum specifications in Section 755.120 ~~or~~ 755.125, ~~or~~ 755.126; and  
 3) Maintenance and training services up for bid must be deliverable as prescribed in Sections 755.100 and 755.310.

(Source: Amended at 19 Ill. Reg. 17105, effective JAN 01 1995)

## Section 755.135 ITAP Filing Requirements

- a) The ~~LECs~~ ~~BEC's~~ shall file with the Commission for approval pursuant to the provisions of the Act and this Part, the following tariff items:  
 1) A tariff for providing equipment sets with a detailed description of the equipment the LEC intends to provide pursuant to ITAP,



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

including:

- A) the manufacturer(s) of the equipment,
  - B) the model number(s) of the equipment,
  - C) the model name(s) of the equipment, and
  - D) a description of the operating functions of the equipment;
- 2) A tariff sheet which describes the application packet the LEC intends to provide in compliance with Section 755.115(a). The tariff sheet shall be accompanied by a facsimile of the actual application packets to be provided.
- b) With reference to the provision of ITAP services, the LECs BBE's shall file for approval by the Commission: 1)---All---personal-services contracts-in-excess-of-\$15,000-and-all-other-contracts--in-excess-of \$30,000--which--take-effect-during-the-first-eighteen-months-following the-effective-date-of-this-Part; 2)---All---contracts--in-excess-of \$30,000--which--take-effect-during-or-between-the-nineteenth-month-and forty-second-month-following-the-effective-date-of-this-Part; 3) All all personal services contracts in excess of \$30,000 and all other contracts in excess of \$100,000 which--take-effect---after---the forty-second-month-following-the-effective-date-of-this-Part.

c) The LECs BBE's shall file with the Commission copies of the following:

- 1) Detailed descriptions of bid solicitation and evaluation procedures and criteria, updated as changes occur;
- 2) Detailed descriptions of procedures for delivering ITAP services, updated as changes occur; and
- 3) An annual report (to be filed no later than March 31 of each year) which shall contain the following information:
  - A) Updates on administration procedures for ITAP,
  - B) Description of program activities of the past year, including at a minimum the number of applications received, the number of TT's BBB's distributed, the number and location of regional centers, the number of training sessions offered, the number and type of maintenance/repair/exchange incidents, and lists and descriptions of supply contracts entered into for the provision of ITAP services, and
- C) Description and brief evaluation of program effectiveness including at a minimum the following information:
  - i) the number and type of complaint incidents,
  - ii) the average period of time needed to process a typical application,
  - iii) the average period of time between the processing of an application and the receipt of the TT BBB, and
  - iv) a list of issues or problem areas identified by the Advisory Council and any action taken by the LECs BBE's in response.

(Source: Amended at 19 Ill. Reg. 17105, effective JAN 01 1995 )

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

## Section 755.145 Renewal of Agreements

- a) All agreements, contractual or otherwise, entered into by the LECs BBE's for the provision of ITAP services shall be closed-ended and of limited duration.
- b) Prior to expiration of each agreement, the LECs BBE's shall review and evaluate the agreement and determine appropriate criteria for any successor agreement, consistent with the provisions of this Part.
- c) Before entering into ~~upon-for-prior-to~~ expiration-of agreements for the purchase of equipment sets subject to ~~referenced--in~~ Section 755.135(b), the LECs BBE will solicit bids and award contracts--if supply-is-depleted-or-near-depletion, according to the provisions of Section 755.130 of this Part.

(Source: Amended at 19 Ill. Reg. 17105, effective JAN 01 1995 )

## SUBPART C: ELIGIBILITY AND PARTICIPATION

## Section 755.200 Disability Impaired Certification

- a) An applicant with a hearing disability seeking eligibility for a TT equipment set A-prospective-individual-recipient-seeking-eligibility for-a-TPB-equipment-set-for-a-deaf-or-severely-hearing-impaired-user shall have completed by a licensed physician, licensed audiologist, a designated counselor with the Illinois Department of Rehabilitation Services (DORS), or a speech and hearing consultant with the University of Illinois Division of Specialized Care for Services--for-crippled Children a standard form (provided by the LECs BBE's) certifying that the applicant is deaf or hard-of-hearing ~~users~~ as those terms are ~~deaf-or-severely-hearing-impaired-as-that-condition-is~~ defined in this Part.
- b) An applicant who is deaf-blind A-prospective-individual-recipient seeking eligibility for a telebraille device equipment set or a TT with LVD for--a-deaf-blind-user shall have completed by a licensed physician, licensed audiologist, designated counselor with the Illinois Department of Rehabilitation Services (DORS), or a speech and hearing consultant with the University of Illinois Division of Specialized Care for Services--for-crippled Children a standard form (provided by the LECs BBE's), certifying the applicant ~~users~~ as deaf-blind as that condition is defined in this Part. In instances in which deaf-blindness is certified by an audiologist, the audiologist shall make such certification only upon review of medical records which confirm the applicant's sight disability ~~user's-blindness~~.
- c) An applicant who has a speech disability seeking eligibility for a TT equipment set A-prospective-individual-recipient-seeking-eligibility for-a-TPB-equipment-set-for-a-voice-impaired-user shall have completed by a licensed physician, speech-language pathologist, or speech and

Subject to subsections (f) and (g) below, there is only one recipient per subscriber line ~~subscriber-unit~~. Recipient status shall be granted to an adult user within the residence ~~subscriber-unit~~. In the absence of an adult user within the residence ~~subscriber-unit~~, recipient status shall be granted to the parent or legal guardian residing with a minor user in the residence ~~subscriber-unit~~. The recipient shall assume all responsibilities and liabilities for the equipment set as prescribed by this Part.

c) The recipient shall be required to sign and complete all forms and documents provided in the application packet as described in Section 755.115(a).

d) Along with the completed application, the recipient shall provide copies of drivers' licenses, Illinois State I.D.'s, or some other proof of identification and Illinois residence for the recipient ~~and user~~ and identification of the person to whom telephone service is billed.

e) One telebraille equipment set shall be provided to a recipient in a residence with a single subscriber line even if a TT equipment set or a TT with LVD is also provided for another user or other users in the residence.

f) One TT equipment set or TT with LVD shall be provided to a recipient in a residence with a single subscriber line even if a telebraille equipment set is also provided for another user or other users in the residence.

(Source: Amended at 19 Ill. Reg. 17105, effective JAN 01 1995)

**Section 755.210 Eligibility and Application for Equipment Sets for Organizations Subscriber-Units-Which-are-Statewide-Organizations**

- a) Organizations Statewide-organizations having more than one office receiving basic telephone service shall designate one office to receive the equipment set.
- b) Recipient status shall be granted to the organization. The president, executive director, or other official of the organization shall sign the appropriate application forms on behalf of the organization.
- c) The organization shall assume all responsibilities and liabilities for the equipment set prescribed for recipients by this Part.
- d) The Commission shall file a verified Petition for Eligibility with the Commission containing the following:
- 1) Address and telephone number of the organization's headquarters and the office to which the equipment set will be assigned;
  - 2) Statement explaining how the organization meets the definition of ~~that-it-is-an~~ "organization" contained ~~as-defined in Section 755.107-the purpose-of-which-includes-as-evidenced-by-its articles-of-incorporation-by-laws-or-charter-representing the~~ ~~impaired~~

hearing consultant with the University of Illinois Division of Specialized Care for Services-for-Enfringed Children, a standard form provided by the LECs ~~BBC's~~ certifying the applicant ~~user's~~ has a speech disability ~~as-voice-impaired~~ as that condition is defined in this Part.

- d) An applicant who has a speech-sight disability seeking eligibility for a telebraille equipment set or a TT with LVD ~~A-prospective-individual recipient-seeking-eligibility-for-a-telebraille-equipment-set-for-a voice-impaired-blind-user~~ shall have completed by a licensed physician, speech-language pathologist, a speech and hearing consultant with the University of Illinois Division of Specialized Care for Services-for-Enfringed Children, or a designated counselor with DORS a standard form (provided by the LECs ~~BBC's~~) certifying the applicant as a person with a speech-sight disability ~~user's-as-blind and-voice-impaired~~ as that condition is defined in this Part. In instances in which the applicant has a speech-sight disability ~~user-is blind-and-the-voice-impaired~~ and the speech disability is certified by a speech-language pathologist, the speech-language pathologist shall make such certification only upon review of medical records which confirm the applicant's sight disability ~~user's-blindness~~. In instances in which the applicant's speech disability ~~user-is voice-impaired~~ and the sight disability ~~blindness~~ is certified by a designated counselor with DORS, the DORS counselor shall make such certification only upon review of medical records which confirm the applicant's speech disability ~~user's-voice-impaired~~.

- e) The LECs ~~BBC's~~ shall obtain from the Director of DORS a list of designated DORS counselors who have expertise in working with persons with hearing and sight disabilities ~~the-hearing-impaired-population~~ and who are authorized to certify individuals for ITAP. The LECs ~~BBC's~~ shall obtain from the Director of the University of Illinois Division of Specialized Care for Services-for-Enfringed Children a list of the Division's designated hearing and speech consultants authorized to certify individuals for ITAP. The LECs ~~BBC's~~ shall obtain updated lists annually.

(Source: Amended at 19 Ill. Reg. 17105, effective JAN 01 1995)

**Section 755.205 Eligibility and Application for Equipment Sets for Residents Subscriber-Units-Which-are-Residential**

- a) One equipment set shall be provided per subscriber line in a residence which ~~subscriber-unit-that~~ is the permanent legal residence of a user ~~one-or-more-impaired-users~~. Subject to subsections (f) and (g) below, the maximum number of equipment sets that shall be provided is the lesser of the number of user(s) or the number of subscriber lines in the residence.
- b) The equipment set shall be granted in the name of the recipient.



## ILLINOIS COMMERCE COMMISSION

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

## NOTICE OF ADOPTED AMENDMENTS

- 3) Statement of the equipment set applied for and a demonstration that the organization's primary purpose is serving those persons with disabilities who require that kind of equipment set;
- 43) Full names, addresses, and telephone numbers of officers who can act for the organization;
- 54) Articles of incorporation, by-laws, charter, or any other documenting evidence supporting the statement required by subsection (d)(2);
- 55) Most recent annual report (if applicable).
- e) The organization's eligibility organization will be determined by the Commission receive-its-designation upon the filing of a complete verified-completed Petition. A determination of eligibility shall be based on a finding by the Commission that the organization meets the definition of "organization" contained in Section 755.10 and that its primary purpose is to serve the needs of those persons with disabilities who require the equipment set for which the organization has applied.

(Source: Amended at 19 Ill. Reg. 17105.03, effective JAN 01 1995)

## Section 755.220 Time Period for Possession

Contingent upon the recipient's compliance with provisions of this Part, all equipment sets will be provided until the user's legal residence subscriber-unit ceases to have telephone service for more than 45 days. At such time the equipment set must be returned to the LEC. If telephone service is reestablished after the equipment set has been returned to the LEC, eligibility must be reapplied for as though no prior service had been provided. An applicant who re-applies after having returned an equipment set may submit an eligibility form certifying the disability, as described in Section 755.115(a)(2), dated up to one year prior to the date of notice of loss of eligibility.

(Source: Amended at 19 Ill. Reg. 17105.03, effective JAN 01 1995)

## Section 755.225 Shared Residence

In the event that two or more recipients share a common permanent legal residence constituting a subscriber-unit, equipment in excess of that permitted under Section 755.205 one-equipment-set shall be returned to the LEC.

(Source: Amended at 19 Ill. Reg. 17105.03, effective JAN 01 1995)

## Section 755.305 Recipient Responsibility

- a) In cases in which the recipient is the sole user within the residence subscriber-unit:
- 1) in the event the recipient permanently relocates outside of Illinois, the recipient must return the equipment set to the LEC prior to leaving the State state;
- 2) in the event of the death of the recipient, the executor of the recipient's estate, or other responsible survivor must return the equipment set to the LEC.

- b) In cases in which the user users--other--than--the--recipient--reside resides with a person with a disability in-a-subscriber-unit and in the event of the user's recipient's death or permanent relocation outside of Illinois, the a remaining person with the disability adult user or the parent or legal guardian of the a remaining person with a disability minor--user-- must give notice to the LEC and make application for the assignment of recipient status to the an eligible individual within the residence subscriber-unit.

- c) in--the--event--all--users--permanently--depart--from--the--subscriber--unit--of--the--recipient--the--recipient--shall--return--the--equipment--set--to--the--LEC--within--30--days--following--the--departure--of--the--last--user--

- cd) In cases in which the recipient is not a user, on the occasion of the 18th birthday of a minor user, the recipient shall give notice to the LEC, and recipient status for-the-subscriber-unit shall be transferred to the user.

(Source: Amended at 19 Ill. Reg. 17105.03, effective JAN 01 1995)

## SUBPART E: OVERSIGHT AND REVIEW

## Section 755.400 Staff Liaison

The Executive Director of the Illinois-Commerce Commission shall appoint one Staff member to act as Staff Liaison to the programs required by Section 13-703 of the Act. The Staff Liaison shall serve as a contact person, advisor and monitor of the ITAP administrators and the Advisory Council. The Staff Liaison shall implement a procedure for coordinating the dissemination of information by the LECs BBE's, the ITAP Advisory Council and the Commissions's 9-1-1 Coordinator in order to encourage and assist emergency telephone services Public Safety Answering Points ("PSAP") to update and/or install TTB PAB equipment, investigate and implement PSAP-based TTB PAB decoder systems, and develop or refine regular TTB PAB training and testing procedures for their telecommunications.

(Source: Amended at 19 Ill. Reg. 17105.03, effective JAN 01 1995)

## Section 755.405 Advisory Council



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

An Advisory Council composed of seven members who are representatives of persons with disabilities ~~the impaired-community~~ shall function as an organ for the input of individuals with disabilities ~~the-impaired~~ to ITAP.

- a) For the purpose of selecting representatives to the Advisory Council, the Commission shall divide the state into the following five districts along Market Service Area ("MSA") boundaries:

- District #1 -- MSA 1
- District #2 -- MSA's 2, 3, 4, 13, 18
- District #3 -- MSA's 5, 6, 7, 17
- District #4 -- MSA's 8, 9, 10, 14, 16
- District #5 -- MSA's 11, 12, 15, 19

- b) In each district, organizations eligible to receive equipment sets under this Part shall jointly select representatives to the Advisory Council;

- 1) Three members shall be selected from the district containing MSA 1,
- 2) One member shall be selected from each of the four remaining districts, and
- 3) The Advisory Council members shall be elected to staggered terms with an election being held annually. Selections-of-Advisory Council-members-shall-take-place-every-two-years.

- c) The seven members of the Advisory Council shall elect a chairperson.

(Source: Amended at 19 Ill. Reg. 17105, effective January 1, 1995)

## SUBPART F: LINE CHARGE ADJUSTMENT MECHANISM

## Section 755.500 Annual Filings

- a) On or before April 1 of each year, ITAC shall file with the Commission a verified petition requesting that the Commission establish the annual line charge, and shall file with the petition the following information, and shall serve the filing as provided in Section 755.515(b):

- 1) ITAC's audited financial statements as of December 31 of the prior calendar year;
- 2) A projected balance sheet, projected statement of revenues and expenses, projected statement of cash flows, and a summary of significant projection assumptions and accounting policies for the projection period;
- 3) A pro forma adjustment to annualize December levels of revenues and expenses for the projection period shall be added to the projected revenues and expenses;
- 4) A statement from an independent certified public accountant that the projected balance sheet and statements of revenues and expenses and cash flows comply with the guidelines for presentation of a projection established in the "Guide for

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

Prospective Financial Information Statements" (copyright 1993 1996) by the American Institute of Certified Public Accountants (1211 Avenue of the Americas, New York NY 10036), and that the underlying assumptions provide a reasonable basis for management's projections. No later amendment or edition of the "Guide for Prospective Financial Information Statements" is included by this incorporation; and

- 5) Schedules for the projection period presenting the following information in the format of Sections 755.Exhibit A through 755.Exhibit M B below:

- A) A calculation of the proposed monthly line charge (Exhibit A);
- B) A comparison of present and proposed line charges, as adjusted (Exhibit B);
- C) A statement of revenues and expenses at present line charge, as adjusted (Exhibit C);
- D) A statement of prior calendar year actual revenues over/(under) expenses (Exhibit D);
- E) A schedule of adjustment to projected cash balance (Exhibit E);
- F) A supporting schedule of planned capital expenditures during projection period (Exhibit F);
- G) A schedule of projected increase to cash under proposed line charge before cash adjustment (Exhibit G);
- H) A schedule of projected and historical ~~TRS dual-party--releay service~~ call volumes and as projected and ~~effective-January 17-1994~~ historical subscribed lines (Exhibit H);

I) A depreciation schedule (Exhibit I);

- J) A schedule of projected payroll expenses (other than TRS BPRS payroll expenses), as adjusted (Exhibit J);
- K) A schedule of projected line charge filing expenses (assuming no suspension of filing) (Exhibit K);

L) Comparative actual and projected balance sheets, at proposed line charge, as adjusted (Exhibit L); and

M) Comparative actual and projected statements of revenues and expenses, at proposed line charge, as adjusted (Exhibit M).

- b) For purposes of projecting subscriber lines for the projection period as required by subsection (a) above, it shall be assumed that subscriber lines will increase or decrease annually, from the number of subscriber lines on December 31 of the prior calendar year reported by ITAC pursuant to subsection (a)(5)(H) above, at a weighted average growth rate. Prior to January 1, 1996, this growth rate shall reflect the rates of increase or decrease in subscriber lines for the three most recent years available, as calculated from the annual reports to the Commission by the two largest local exchange telecommunications carriers in Illinois. Effective January 1, 1996, this growth rate shall reflect the rates of increase or decrease in subscriber lines for the three most recent years, as reported by ITAC, pursuant to

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- subsection (a)(5)(H) above.
- c) Effective January 1, 1996, for purposes of projecting TBS dual-party relay-service call volumes for the projection period as required by subsection (a), forecasts of call volumes shall be based on historical Illinois TBS dual-party-relay-service call volumes.
- d) For purposes of projecting expenses for the projection period as required by subsection (a), an annual inflation factor equal to the consensus Gross National Product implicit price deflator to the projection period, as reported in the publication "Blue Chip Economic Indicators" for January of the year in which the filing is made, shall be applied to all costs, including dual-party-relay-service-costs, but excluding depreciation and costs fixed by contract between ITAC and another party.
- e) For purposes of establishing the proposed line charge for the projection period, ITAC shall make calculations so that the following amounts are reflected in the proposed line charge over a 12 month period:
- 1) projection period revenues (over)/under expenses at present line charge, as adjusted;
  - 2) the total difference, if any, between ITAC's actual revenues and ITAC's actual expenses for the prior calendar year; and
  - 3) any adjustment necessary so that ITAC's cash balance, under the proposed line charge, at the end of the projection period will be no less than one-eighth and no greater than one-fourth of ITAC's projected expenses, as adjusted, for the projection period, excluding depreciation, plus an allowance for planned capital expenditures during the projection period.
- f) ITAC shall make available to the Commission Staff all workpapers, documentation, and calculations supporting its annual filing.

(Source: Amended 19 Ill. Reg. 17105, effective JAN 01 1995)

### Section 755.505 Local Exchange and Inter-Exchange Carrier Reports and Remittances to ITAC

- a) Each local exchange carrier, as defined in this Part, shall provide a monthly remittance report to ITAC, indicating the number of subscriber lines excluding centrex lines, the number of centrex lines, the applicable line charges, the number of intra-MSA (See Section 13-208 of the Act) TBS dual-party-relay-service billable messages billed, the number of inter-MSA-dual-party-relay-service-billable-messages, billed as agent for an interexchange carrier the revenues from each source, adjustments for errors (if any) in prior monthly reports and the total remittance. All revenue amounts shall be reported net of uncollectible amounts and applicable discounts as prescribed by 83 Ill. Adm. Code 756.220(d) and 83 Ill. Adm. Code 756.125(a)(2)(C), respectively, and shall be remitted to ITAC as reported. This data

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- shall be presented in the format of Section 755. Exhibit N M.
- b) Each inter-exchange carrier that bills any Illinois customer directly or through an agent other than a local exchange carrier for intrastate inter-MSA dual-party-relay-service messages shall provide a monthly remittance report to ITAC, indicating the number of inter-MSA-dual-party-relay-service-billable-messages billed for the month, the related amount of revenues, adjustments for errors (if any) in prior monthly reports, and the total remittance. All revenue amounts shall be reported net of uncollectible amounts and applicable discounts as prescribed by 83 Ill. Adm. Code 756.220(d) and 83 Ill. Adm. Code 756.125(a)(2)(C), respectively, and shall be remitted to ITAC as reported. This data shall be presented in the format of Section 755. Exhibit N.

(Source: Amended at 19 Ill. Reg. 17105, effective JAN 01 1995)

### Section 755.515 Notice and Filing Requirements

- a) ITAC shall, beginning not later than ten days after it files the information required under Section 755.500 or under Section 755.520, cause to be published once each week for two consecutive weeks a notice of its filing in the official state newspaper and in a secular newspaper (that has been regularly published for at least six months prior to the first publication of such notice) in general circulation in the cities of Chicago and Springfield. Such notice shall be not less than one column in width and three inches in length.
- b) ITAC shall file with the Chief Clerk of the Commission the required reports and schedules pursuant to Section 755.500 and 755.520. Any documents filed with the Commission pursuant to those Sections this Part shall also be served on the following persons: Director of the Commission's Telecommunications Department, the Staff Liaison, and the ITAP Advisory Council chairperson.

(Source: Amended 19 Ill. Reg. 17105, effective JAN 01 1995)

ILLINOIS COMMERCE COMMISSION  
NOTICE OF ADOPTED AMENDMENTS

Section 755. EXHIBIT A Calculation of Monthly Line Charge (Schedule A-1)

Line (A)	Description (B)	Amount (C)
1	Projection Period Revenues (Over)/Under Expenses At	
2	Present Line Charge, As Adjusted (a)	
3	Prior Calendar Year Actual Revenues (Over)/Under	
4	Expenses (b)	
5	Adjustment To Projected Cash Balance (c)	
6	Subtotal	
7	End-of-Period Projected Subscriber Lines	
8	Annual Revenue Adjustment Per Subscriber Line (Line	
9	4 Divided by Line 5 - Rounded to 4 Decimal Places)	
10	Increase (Decrease) in Monthly Line Charge for	
11	Projection Period (Line 6 Divided by 12	
12	Months - Rounded to 4 Decimal Places)	
13	Add: Present Line Charge	
14	Subtotal (Line 7 Plus Line 8)	
15	Proposed Monthly Line Charge (Line 9 Rounded to	
16	Next Higher Cent)	

- (a) Amount from line 17 16, column E, schedule A-3.  
(b) Amount from line 17 16, column D, schedule A-4.  
(c) Amount from line 6 or 11, column D, schedule A-5.

(Source: Amended at 19 Ill. Reg. 17105, effective  
JAN 1 1995)

ILLINOIS COMMERCE COMMISSION  
NOTICE OF ADOPTED AMENDMENTS

Section 755. EXHIBIT B Comparison of Present and Proposed Line Charges  
(Schedule A-2)

Line (A)	Description (B)	Projection Period (year) As Adjusted At Present Line Charge (C)	Projection Period (year) As Adjusted At Proposed Line Charge (D)	Difference (Column D- Column C) (E)	Percentage Change (Column E/ Column C) (F)
1	Number of Subscriber				
2	Lines Excluding Centrex				
3	Number of Centrex Lines				
4	Subscriber Line Charge				
5	Excluding Centrex				
6	Centrex Line Charge				
7	Subtotal				
8	Investment Income				
9	TRS Busi--Party--Relay				
10	Service				
11	Other:				
12	Total Revenues				
13	Expenses				
14	Revenues Over/(Under)				
15	Expenses				

(Source: Amended 19 Ill. Reg. 17105, effective  
JAN 1 1995)



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

## Section 755. EXHIBIT C Projection Period Statement of Revenues and Expenses at Present Line Charge, As Adjusted (Schedule A-3)

Line (A)	Description (B)	Projection Period Ending 12/31/ (C)	Adjustment to Annualize December Levels (D)	Total (E)
1	Revenues			
2	Subscriber Line Charge			
3	Investment Income			
4	TRS			
5	Buair-Party-Relay-Service			
6	Other Income:			
7	TOTAL REVENUES			
8	Expenses:			
9	TRS			
10	Buair-Party-Relay-Service			
11	Administration			
12	Equipment Distribution			
13	and Maintenance			
14	Legal			
15	Accounting and Consulting			
16	Depreciation			
17	(Gain)/Loss on Property			
18	and Equipment Retirements			
19	Other Expenses:			
20	TOTAL EXPENSES			
21	Revenues Over/(Under)			
22	Expenses			

(Source: Amended at 19 Ill. Reg. 17105, effective  
JAN 01 1995)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

## Section 755. EXHIBIT D Prior Calendar Year Actual Revenues Over/(Under) Expenses (Schedule A-4)

Line (A)	Description (B)	Year Ended 12/31/ (C)	Amount (D)
1	Revenues:		
2	Subscriber Line Charge		
3	Investment Income		
4	TRS		
5	Buair-Party-Relay-Service		
6	Other Income:		
7	TOTAL REVENUES		
8	Expenses:		
9	TRS		
10	Buair-Party-Relay-Service		
11	Administration		
12	Equipment Distribution		
13	& Maintenance		
14	Legal		
15	Accounting and Consulting		
16	Depreciation		
17	(Gain)/Loss on Property		
18	and Equipment Retirements		
19	Other Expenses:		
20	TOTAL EXPENSES		
21	Revenues Over/(Under) Expenses		

(Source: Amended at 19 Ill. Reg. 17105, effective  
JAN 01 1995)

ILLINOIS COMMERCE COMMISSION  
NOTICE OF ADOPTED AMENDMENTS

JAN 01 1995

Section 755. EXHIBIT E Schedule of Adjustment to Projected Cash Balance  
(Schedule A-5)

Line (A)	Description (B)	Amount (C)	Amount (D)
1	Projected Cash Balance at Proposed Line Charge Before Cash Adjustment (a)		
2	One-Eighth of Projected Expenses, As Adjusted (Excluding Depreciation)		
3	Planned Capital Expenditures During Projection Period (Attach Supporting Schedule)		
4	Line 2 plus Line 3		
5	If Line 4 is greater than Line 1, enter amount from Line 4 here. If Line 4 is less than Line 1, go to Line 7.		
6	Adjustment to Cash Balance (Line 5 minus Line 1) *IF THERE IS AN ENTRY ON LINE 5, STOP HERE AND ENTER AMOUNT FROM LINE 6 ON LINE 3 OF PAGE-1 SCHEDULE A-1		
7	One-Fourth of Projected Expenses, As Adjusted (Excluding Depreciation)		
8	Amount from Line 3		
9	Line 7 plus Line 8		
10	If Line 9 is less than Line 1, enter amount from Line 9 here. If Line 9 is greater than Line 1, there is no adjustment to Cash Balance.		
11	Adjustment to Cash Balance (Line 10 minus Line 1) *IF THERE IS AN ENTRY ON LINE 10, ENTER AMOUNT FROM LINE 11 ON LINE 3 OF SCHEDULE A-1.		

(a) Amount from line 7, Column D, Schedule A-76.  
(Source: Amended at 19 Ill. Reg. 17105 53, effective

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

**Section 755. EXHIBIT F Supporting Schedule of Planned Capital Expenditures During Projection Period (Schedule A-6)**

Line (A)	Description (B)	Amount (C)	Amount (D)
-------------	--------------------	---------------	---------------

1.	Amount of Property and Equipment Purchased in prior calendar years to be paid in projection period:		
2.	TT Equipment		
3.	Telebraille Equipment		
4.	LVD Equipment		
5.	Computer Equipment and Software		
6.	Furniture and Fixtures		
7.	Buildings		
8.	Subtotal		
9.	Add: Amount of Projected Property and Equipment purchases:		
10.	TT Equipment		
11.	Telebraille Equipment		
12.	LVD Equipment		
13.	Computer Equipment and Software		
14.	Furniture and Fixtures		
15.	Buildings		
16.	Subtotal (a)		
17.	Less: Amount of Projected Property and Equipment Purchases to be Paid in years following projection period:		
18.	TT Equipment		
19.	Telebraille Equipment		
20.	LVD Equipment		
21.	Computer Equipment and Software		
22.	Furniture and Fixtures		
23.	Buildings		
24.	Subtotal		
25.	Total Planned Capital Expenditures During Projection Period		
(a) Amount from Line 9, Column D, Schedule A-9			

(Source: Added at 19 Ill. Reg. 17105, effective JAN 01 1995)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

**Section 755. EXHIBIT F G Schedule of Projected Increase to Cash Under Proposed Line Charge Before Cash Adjustment (Schedule A-76)**

Line (A)	Description (B)	Amount (C)	Amount (D)
-------------	--------------------	---------------	---------------

1	Projected Cash Balance at Present Rates, as adjusted		
2	Projected increase to Cash Balance at proposed line charge before cash adjustment calculation		
3	Projection Period Revenues (Over)/Under Expenses at Present Line Charge, as adjusted (a)		
4	Prior period actual revenues (Over)/Under Expenses (b)		
5	Subtotal (Line 3 plus Line 4)		
6	Projected increase/(decrease) to cash under proposed line charge before cash adjustment (One-Half of Line 5)		
7	Projected Cash Balance at proposed line charge before cash adjustment (Line 1 plus Line 6)		

(a) Amount from Line 17 & 16, Column E, Schedule A-3.

(b) Amount from Line 17 & 16, Column D, Schedule A-4.

(Source: Relettered from Exhibit F and amended at 19 Ill. Reg. 17105, effective JAN 01 1995)



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

Section 755. EXHIBIT H<sub>6</sub> Call Volumes and Subscriber Lines (Schedule A-87)

## TRS Dual-Party-Relay-Service

Line (A)	Month (B)	Call Volume				Subscriber Lines			
		Actual Cal Yr (C)	Proj. Period (D)	Diff. Col D - Col C (E)	Actual Prior Cal Yr (F)	Proj. Period (G)	Diff. Col G - Col F (H)		
1	Jan								
2	Feb								
3	Mar								
4	Apr								
5	May								
6	June								
7	July								
8	Aug								
9	Sept								
10	Oct								
11	Nov								
12	Dec								
13	Total								

(Source: Relattered from Exhibit G and amended at 19 Ill. Reg. 97105, effective JAN 01 1995)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

## Section 755. EXHIBIT H Depreciation Schedule (Schedule A-9 A-8)

Line (A)	Description (B)	Actual Prior Cal Yr 12/31/ Equipment At Cost (C)	Proj Period 12/31/ Prop and Equipment (Year) Additions (D)	Proj Period 12/31/ Prop and Equipment Retire- ments (E)	Proj Period 12/31/ Prop and Equipment At Cost (F)	Average Useful Life (G)	Proj Period Depreciatio Expense (H)
1	Buildings						
2	Computer Equipment						
3	Computer						
4	Software						
5	Furniture and Fixtures						
6	Equipment						
7	Teletype Equipment						
8	Large Visual Display Equip.						
9	Other						
10	Total						

## Reconciliation of Accumulated Depreciation

11	Accumulated Depreciation		
12	12/31/ Accumulated Depreciation		
13	Associated With Retirements		
14	(Year) Depreciation Expense		
15	12/31/ Accumulated Depreciation		
16			

(Source: Relattered from Exhibit H and amended at 19 Ill. Reg. 97105, effective JAN 01 1995)

ILLINOIS COMMERCE COMMISSION  
NOTICE OF ADOPTED AMENDMENTS

Section 755. EXHIBIT K & Projected Line Charge Filing Expenses (Schedule A-10  
A-11)

Line (A)	Description (B)	Year Ending 12/31 (C)
1	Legal	
2	Accounting	
3	Other:	
4	Other:	
5	Total	

(Source: Relettered from Exhibit J and amended at 19 Ill. Reg.  
17105.05 effective JAN 01 1995)

ILLINOIS COMMERCE COMMISSION  
NOTICE OF ADOPTED AMENDMENTS

Section 755. EXHIBIT J & Projected Payroll Expenses, As Adjusted (Other than  
DPRS Payroll Expenses) (Schedule A-10 A-9)

Line (A)	Description (B)	Year Ending 12/31 (C)	Amount (D)
1	Executive Wages		
2	Other Management		
3	Wages		
4	Non-Management Wages		
5	Sub-Total		
6	Executive Benefits		
7	Other Management		
8	Benefits		
9	Subtotal		
	Total Payroll		
	Expenses		

(Source: Relettered from Exhibit I and amended at 19 Ill. Reg.  
17105.05, effective JAN 01 1995)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

Section 755. EXHIBIT 18 Comparative Actual and Projected Balance Sheets, At Proposed Line Charge, As Adjusted (Schedule A-11 A-12)

Line (A)	Description (B)	Actual Prior Calendar Year 12/31/ (C)	Projected 12/31/ (D)
-------------	--------------------	--	----------------------------

1	ASSETS		
2	Current Assets:		
3	Cash, and Cash Equivalents		
4	and Other Cash Investments		
5	Accounts Receivable		
6	Interest Receivable		
7	Prepaid Distribution Expense		
8	Other:		
9	Total Current Assets		
10	Property and Equipment:		
11	Computer Hardware		
12	Equipment and Software		
13	Furniture and Fixtures		
14	TT TBB Equipment		
15	Telebraille Equipment		
16	Large Visual Display Equipment		
17	Less: Accumulated Depreciation		
18	Property and Equipment, Net		
19	Other:		
20	Total Assets		
21	LIABILITIES AND FUND BALANCE		
22	Current Liabilities:		
23	Accounts Payable		
24	TRB BPRS		
25	Other:		
26	Total Current Liabilities		
27	Fund Balance:		
28	Beginning Balance		
29	Revenues Over/(Under) Expenses		
30	Ending Balance		
31	Total Liabilities and Fund		
32	Balance		

(Source: Retellettered from Exhibit K and amended at 19 Ill. Reg. 17105 effective JAN 1 1995)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

Section 755. EXHIBIT 15 Comparative Actual and Projected Statements of Revenues and Expenses at Proposed Line Charge, As Adjusted (Schedule A-12 A-13)

Line (A)	Description (B)	Actual Prior Calendar Year 12/31/ (C)	Projected 12/31/ (D)
-------------	--------------------	--	----------------------------

1	Revenues		
2	Subscriber Line Charge		
3	Investment Income		
4	TRB Dual-Party-Relay-Service		
5	Other:		
6	Total Revenues		
7	Expenses:		
8	TRB Dual-Party-Relay-Service		
9	Administration		
10	Equipment Distribution and		
11	Maintenance		
12	Legal		
13	Accounting and Consulting		
14	Depreciation		
15	(Gain)/Loss on Property and		
16	Equipment Retirements		
17	Other Expenses:		
18	Total Expenses		
19	Revenues Over/(Under) Expenses		

(Source: Retellettered from Exhibit L and amended at 19 Ill. Reg. 17105 effective JAN 1 1995)



ILLINOIS COMMERCE COMMISSION  
NOTICE OF ADOPTED AMENDMENTS

## Section 755. EXHIBIT NM Local Exchange Carrier Monthly Report to ITAC

Local Exchange Carrier Name:

Remittance for (Month/Year):

Line (A)	Description (B)	Number (C)	Rate (D)	Revenues (b) (E)
1	Subscriber Lines (a)	_____	_____	_____
2	Centrex Lines	_____	_____	_____
3	Intra-MSA <u>TRS</u> dual-party relay-service billable messages billed	_____	_____	_____
4	Inter-MSA dual-party relay-service-billable messages-billed-as agent-for-an-inter- exchange-carrier	_____	_____	_____
45	Prior Period Adjust- ment (Attach Explanation)	_____	_____	_____
56	Total Remittance			

(a) "Subscriber lines" means access lines, as defined in 83 Ill. Adm. Code 730.105, of local exchange carriers ~~subject to the jurisdiction of the Illinois Commerce Commission as defined in 83 Ill. Adm. Code 735.10~~ Administrative Code 735.10 (including telecommunications carriers that are mutual concerns as defined in Section 13-202(b) of the Act), ~~730.105~~, but shall not include Feature Groups A, B, C and D access lines, 800 lines or access lines used for official communications of telecommunications carriers providing local exchange service. Also, for purposes of this report, "subscriber lines" does not include Centrex lines.

(b) All revenue amounts shall be reported net of uncollectible amounts and applicable discounts as prescribed by Sections 756.220(d) and 756.125(a)(2)(C), respectively.

Date Prepared:  
Originator:

**Phone:**

Source: Relettered from Exhibit M and amended at 19 Ill. Reg.  
17105 14, effective JAN 1 1995

ILLINOIS COMMERCE COMMISSION  
NOTICE OF ADOPTED AMENDMENTS

Section 755. EXHIBIT N Inter-Exchange Carrier Monthly Remittance Report to ITAC  
(Repealed)

Inter-Exchange-Carrier-Name:-

Remittance-for-(Month/year)-:--

Line	Description	Inter-MGA-Messages Billed-for-Month	Revenues-(b)
(A)	(B)	(C)	(D)
1	Direct-Inter-Exchange-Exchange		
	Bittings-(A)		
2	Pro-rated-Adjustments		
	Unrecovered-Expenses		
3	Total-Remittance		

[illegible]

-----အမှတ်(၁)အထွေထွေ-----

ಪುನಃ

Source: Repealed at 19 Ill. Reg. 17105 effective

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Credit Life and Credit Accident and Health Insurance

2) Code Citation: 50 Ill. Adm. Code 951

3) Section Number:  
951.50 Adopted Action:  
Amended

4) Statutory Authority: Implementing and authorized by Sections 155.57 and 155.62 of the Illinois Insurance Code [215 ILCS 5/155.57 and 155.62]

5) Effective Date of Rulemaking: December 19, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: December 19, 1995

9) Notice of Proposal Published in Illinois Register: August 18, 1995, 19 Ill. Reg. 11765

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: There are no differences between the proposal and the final version.

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Pursuant to Section 951.60(b) of this Part, the Department is required to triennially review and adjust credit life rates. In January 1995, the Department had several meetings with industry concerning the current rates allowed for credit life insurance. The Department also conducted a review of the entire credit life insurance market in Illinois. As a result of the meetings and the review, it was determined that the rates needed to be adjusted. This amendment to Part 951 will reflect a 6% reduction in prima facie credit life rates.

16) Information and questions regarding this adopted Amendment shall be directed to:

Gerald Lucht  
Department of Insurance  
320 West Washington

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

Springfield, Illinois 62767-0001  
(217) 785-0260

The full text of the Adopted Amendment begins on the next page.

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 50: INSURANCE

## CHAPTER I: DEPARTMENT OF INSURANCE

## SUBCHAPTER m: CREDIT LIFE AND CREDIT ACCIDENT INSURANCE

## PART 951

## CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH INSURANCE

## Section

951.10	Credit Life Insurance
951.20	Credit Accident and Health Insurance (Repealed)
951.30	Purpose and Scope
951.40	Definitions
951.50	Credit Life Insurance Rates
951.60	Experience Reports and Adjustment of Prima Facie Rates
951.70	Credit Life Rate Adjustments
951.80	Effective Date

AUTHORITY: Implementing and authorized by Sections 155.57 and 155.62 of the Illinois Insurance Code [215 ILCS 5/155.57 and 155.62].

SOURCE: Filed November 20, 1959, effective December 1, 1959; codified at 7 Ill. Reg. 3464; amended at 12 Ill. Reg. 2426, effective January 15, 1988; amended at 19 Ill. Reg. 17145, effective January 1, 1995.

## Section 951.50 Credit Life Insurance Rates

A credit life insurance rate shall be considered prima facie reasonable in relation to the benefits provided if the rate is not greater than that set forth below in subsection (a) for coverage containing no more restrictive exclusions than those described in subsection (b) of this Section.

- a) Premium Rate. Credit life insurance premium rates for the insured portion of an indebtedness repayable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall be as set forth in subsections (a)(1), (2) and (3). Subsections (a)(4), (5) and (6) refer to premium rates for other types of benefits either alone or in combination with the type of benefits applicable to subsections (a)(1), (2) and (3).

- 1) If premiums are payable monthly on the outstanding insured balance basis for term insurance on a single insured debtor, the prima facie premium rate shall be \$.72 ~~\$-.77~~ per month per \$1,000 of outstanding insured indebtedness.

- 2) If premiums are payable on a single premium basis for term insurance which decreases in equal monthly amounts on a single insured debtor, the prima facie premium rate shall be \$.47 ~~\$-.50~~ per annum per \$100 of initial insured indebtedness.

- 3) If premiums are payable on a single premium basis for level term insurance on a single insured debtor, the prima facie premium

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

rate shall be \$.94 ~~\$1.00~~ per annum per \$100 of initial insured indebtedness.

- 4) A combination of the appropriate rate for level term and the appropriate rate for decreasing term (with equal decrements), if coverage provided is a combination of level term and decreasing term (with equal decrements) on a single insured debtor.

- 5) Joint credit life rate shall be 1.67 times the appropriate single life rate.

- 6) If the benefits provided are other than those described in subsections (a)(1), (2), (3), (4) and (5) of this subsection, then rates for such benefits shall be actuarially consistent with the rates provided in subsections (a)(1), (2), (3), (4) and (5) of this subsection.

- b) Exclusions. The premium rates in subsection (a) shall apply to policies providing credit life insurance to be issued with or without evidence of insurability, to be offered to all debtors, and containing:

- 1) No exclusions other than suicide within one year of the effective date of coverage. Under open-end credit plans, the effective date of coverage may apply separately with respect to each additional purchase or each additional loan to which the coverage relates.

- 2) Either no age restrictions, or age restriction only for initial eligibility, making ineligible for coverage debtors age 65 or over at the time indebtedness is incurred or debtors having attained age 66 or over on the maturity date of the indebtedness, provided that coverage will remain in full force and effect in the event the insurer accepts premium on a debtor whose correctly stated age exceeds the maximum for eligibility and the premium is not refunded within 60 days of receipt.

- 3) Insurance written in connection with an open-end credit plan may exclude from the classes eligible for insurance, classes of debtors determined by age, and provide for the cessation of insurance or reduction in the amount of insurance upon attainment of not less than age 65.

- 4) On insurance written in connection with open-end credit plans where the amount of insurance is based on or limited to the outstanding unpaid balance, no provision excluding or denying a claim for death resulting from a pre-existing condition except for those conditions for which the insured debtor received medical diagnosis or treatment within 6 months preceding the effective date of coverage and which caused or substantially contributed to the death of the insured debtor within 6 months following the effective date of coverage. The effective date of coverage for each part of the insurance attributable to a different advance or charge to the plan account is the date on which the advance or charge is posted to the plan account.



## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 19 Ill. Reg. 17145, effective DEC 13 1995)

17145

effective

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Optometric Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1320

3) Section Numbers: Adopted Action:

1320.20 Amendment  
1320.30 Amendment  
1320.40 Amendment  
1320.50 Amendment  
1320.55 Renumbered  
1320.60 Amendment  
1320.70 Amendment  
1320.80 Amendment  
1320.90 Amendment  
1320.100 Amendment  
1320.110 Amendment  
1320.120 Renumbered  
1320.200 Amendment  
1320.210 Amendment  
1320.220 Amendment  
1320.230 Amendment  
1320.240 Amendment  
1320.250 Amendment  
1320.260 Repealed  
1320.270 Repealed  
1320.300 New Section  
1320.310 New Section  
1320.320 New Section  
1320.330 New Section  
1320.340 New Section  
1320.350 New Section  
1320.400 Amendment, Renumbered  
1320.410 Amendment, Renumbered  
1320.420 Renumbered  
1320.430 Amendment, Renumbered

4) Statutory Authority: The Optometric Practice Act of 1987[225 ILCS 80] as amended by P.A. 89-0140, effective January 1, 1996.

5) Effective Date of Amendments: December 19, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Do these Amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: December 18, 1995

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

9) Date Notice of Proposal Published in Illinois Register: October 6, 1995, at 19 Ill. Reg. 13721.

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Difference(s) between proposal and final version: In Section 1320.20, recognition of systemic diseases with ocular symptoms was added to the list of subject areas to be included in the curriculum of a Department approved program of optometry. Subsection (c) was deleted and subsection (d), pertaining to the assessment of competency, was rewritten.

In Section 1320.40, language was inserted to require successful completion of the Treatment and Management of Ocular Disease (TMOD) section in Part II of the exam to ensure that current graduates of optometry schools are appropriately educated in therapeutics.

In Section 1320.230, hydroxyamphetamine hydrobromide (1.0%) was deleted from the list of approved diagnostic topical ocular pharmaceutical agents because that product is no longer available for use. Subsection (b) was deleted because the same language is in Section 1320.330(b).

In Section 1320.300, references to "dispensing" of therapeutic drugs were removed because the Act states only that an optometrist may "prescribe" or "use" therapeutic agents.

In Section 1320.320, the word "pharmacological" in regard to training for therapeutics was deleted.

Other changes involved style, form and punctuation.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace an Emergency Amendment currently in effect?  
No

14) Are there any Amendments pending on this Part? No

15) Summary and Purpose of Amendments: Public Act 89-0140, effective January 1, 1996, amends the Illinois Optometric Practice Act of 1987 to make Illinois the 45th state to authorize optometrists to use therapeutic pharmaceutical agents (TPAs). This rulemaking implements that Public Act and updates other Sections of the rules.

Applicants for an original optometry license will be required to also apply for certification to use diagnostic and therapeutic ocular pharmaceutical agents, beginning January 1, 1996. The fee for such

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

licensure is set at \$500. Various other fees also are amended.

Other amendments include basing endorsements on the National Board of Examiners in Optometry exam, expanding curriculum and continuing education (CE) requirements to reflect TPA certification, banning CE conflicts of interest, preapproving some out-of-state CE courses and waiving certain ancillary license requirements.

16) Information and questions regarding this amended part shall be directed to:

Department of Professional Regulation  
Attention: Jean Courtney  
320 West Washington, 3rd Floor  
Springfield, Illinois 62786  
217/785-0800 Fax: 217/782-7645

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS  
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
 SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1320

## OPTOMETRIC PRACTICE ACT OF 1987

## SUBPART A: OPTOMETRY

Section  
 1320.20  
 1320.30  
 1320.40  
 1320.45  
 1320.50  
 1320.55  
 1320.60  
 1320.70  
 1320.80  
 1320.90  
 1320.95  
 1320.100  
 1320.110  
 1320.120

Approved Programs of Optometry  
 Application for Licensure  
 Examinations  
 Fees (Emergency Expired)  
 Endorsement  
 Renewals (Renumbered)  
 Inactive Status  
 Restoration  
 Continuing Education  
 Minimum Eye Examination  
 Minimum Equipment List  
 Practice of Optometry  
 Advertising  
 Granting Variances (Renumbered)

## SUBPART B: DIAGNOSTIC TOPICAL OCULAR PHARMACEUTICALS

Section  
 1320.200  
 1320.210  
 1320.220  
 1320.230  
 1320.240  
 1320.250  
 1320.260  
 1320.270

Definitions and Standards  
 Application for Diagnostic Certification  
 Approved Diagnostic Topical Ocular Pharmacological Training  
 Approved Diagnostic Topical Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act  
 Restoration of Diagnostic Certification  
 Endorsement of Diagnostic Certification Certificate  
 Renewal of Certification (Repealed)  
 Display of Certification (Repealed)

## SUBPART C: THERAPEUTIC OCULAR PHARMACEUTICAL AGENTS GENERAL

Section  
 1320.300  
 1320.310  
 1320.320  
 1320.330  
 1320.340

Definitions and Standards Fees  
 Application for Therapeutic Certification Ancillary Licenses and Certificates  
 Approved Therapeutic Ocular Training  
 Approved Therapeutic Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act  
 Restoration of Therapeutic Certification

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

## 1320.350 Endorsement of Therapeutic Certification

## SUBPART D: GENERAL

## Section

1320.400 \$320-300 Fees  
 1320.410 \$320-310 Ancillary Licenses  
 1320.420 \$320-55 Renewals  
 1320.430 \$320-120 Granting Variances

AUTHORITY: Implementing the Illinois Optometric Practice Act of 1987 [225 ILCS 80] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 5 Ill. Reg. 5869, effective June 1, 1981; codified at 5 Ill. Reg. 11046; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2273, effective January 29, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 10032, effective August 1, 1982; amended at 9 Ill. Reg. 1092, effective January 11, 1985; amended at 10 Ill. Reg. 7340, effective April 16, 1986; transferred from Chapter I, 68 Ill. Adm. Code 320 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1320 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 1821; emergency amendment at 12 Ill. Reg. 1925, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11447, effective June 27, 1988; amended at 13 Ill. Reg. 6994, effective April 25, 1989; amended at 14 Ill. Reg. 14128, effective August 15, 1990; amended at 17 Ill. Reg. 18096, effective October 4, 1993; amended at 17 Ill. Reg. 21501, effective September 1, 1993; amended at 19 Ill. Reg. 97150, effective 12/1/95.

## SUBPART A: OPTOMETRY

## Section 1320.20 Approved Programs of Optometry

- a) The Department of Professional Regulation (the "Department") shall, upon the recommendation of the Illinois Optometric Licensing and Disciplinary Committee (the "Committee"), approve an optometry program as--reputable--and--in-good-standing if it meets the following minimum criteria:
- 1) The educational institution is legally recognized and authorized by the jurisdiction in which it is located to confer the Doctor of Optometry degree.
  - 2) Has a faculty that comprises which-is-comprised-of a sufficient number of full-time instructors to make certain that the educational obligations to the students student are fulfilled. The faculty must have demonstrated competence in their area of



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

teaching as evidenced by appropriate degrees from professional colleges or institutions.

- 3) Has a curriculum of at least the following subject areas:

Basic Science, including Anatomy, Physiology and Biochemistry  
 Psychological Optics  
 Practical Optics  
 Anatomy and Physiology of the Eye  
 Pathology of the Eye  
 Physiological Optics  
 Theoretical Optometry  
 Practical Optometry  
 Clinical Optometry  
 Theory and Practice of Contact Lens Fitting  
 Pharmacology  
 Diagnosis, treatment and management of ocular disease and recognition of systemic diseases with ocular symptoms

- 4) Has a course of study of 4 academic years above the undergraduate level.

- 5) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

- b) In determining whether a school or college should be approved, the Department shall take into consideration but not be bound by accreditation by the Council on Optometric Education or--~~approval--~~by the International Optometric and Optical League.

- c) Procedures taught in schools and colleges of optometry approved by the Department that are considered for approval in the practice of optometry shall be adopted pursuant to rule or regulation by the Department upon recommendation of the Committee. Before adoption of such rules or regulations, the Committee shall first evaluate the procedure in accordance with criteria it has previously adopted. Furthermore, the Committee shall specify training and demonstration of competency required before an optometrist may perform such procedures. In any event, the Department, upon recommendation of the Committee, has determined that surgery, including surgery performed with a laser, is not an optometric procedure.

## d) Program Evaluation

- 1) An applicant from an optometry program that has not been evaluated will be requested by the Department to provide documentation concerning the criteria in this Section.
- 2) Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever comes first, the Committee will evaluate the program based on all documentation received from the school and any additional information the Department has received which it deems to be reliable.

- e) Withdrawal of Approval

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- 1) The Director may, upon a written recommendation submitted by the Committee, withdraw, suspend or place on probation the approval of an optometry program when the quality of the program has been materially affected by any of the following causes:

- A) Gross or repeated violations of any provision of the Illinois Optometric Practice Act of 1987 [225 ILCS 80] ~~which~~ Rev-Stat-1997-ch-117-par-3-3901-et-seq (the "Act");

- B) Gross or repeated violations of any of this Part;
- C) Fraud or dishonesty in furnishing documentation for evaluation of the optometry program; or

- D) Failure to continue to meet the established criteria of an approved optometry program as set out in this Section.

- 2) An optometry program whose approval is being reconsidered by the Department shall be given written notice prior to any recommendation by the Committee and the officials in charge may either submit written comments or request a hearing before the Committee in accordance with 68 Ill. Adm. Code 1110.

- f) The Department, upon the recommendation of the Committee, has determined that optometry programs accredited by the Council on Optometric Education as of January 1, 1996 1999, meet the minimum criteria set forth in subsection (a) above and are, therefore, approved.

(Source: Amended at 19 Ill. Reg. 17156, effective DEC 19 1995)

## Section 1320.30 Application for Licensure

- a) An individual applying for a license to practice optometry shall file an application on forms supplied by the Department. The application shall include:

- 1) Certification of graduation from a an-approved 4-year optometry graduate level program approved by the Department in accordance with Section 1320.20;

- 2) Certification of passage Passage of the National Board of Examiners in Optometry (NBEO) examinations as set forth in Section 1320.40. The applicant shall have the examination scores submitted to the Department directly from NBEO;

- 3) A complete work history since graduation from an optometry program;

- 4) Certification of licensure from all United States jurisdictions in which the applicant has ever been licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of original issuance of the license;

- B) A description of the licensure examination in that jurisdiction;

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- C) ~~3~~ Whether whether the file on the applicant contains any record of any disciplinary actions taken or pending; and
- 5) ~~e~~ The required fee set forth in Section 1320.400 ~~1320-300~~ of this Part.

- b) Individuals applying for an original optometry license after January 1, 1996 shall also be required to apply for and maintain certification for use of diagnostic topical ocular pharmaceutical agents in accordance with Subpart B and therapeutic ocular pharmaceutical agents in accordance with Subpart C.

(Source: Amended at 19 Ill. Reg. 17150, effective DEC 19 1995)

## Section 1320.40 Examinations

- a) The examination for licensure as an optometrist in Illinois shall be Part I, Part II, including passage of the Treatment and Management of Ocular Disease (TMOD) section after January 1, 1996, and Part III of the examination administered by the National Board of Examiners in Optometry (NBEO).
- b) An applicant must direct NBEO to submit evidence of the passage ~~successful~~ ~~completion~~ of the entire NBEO examination, by NBEO standards, to the Department.

(Source: Amended at 19 Ill. Reg. 17150, effective DEC 19 1995)

## Section 1320.50 Endorsement

- a) An applicant who is licensed under the laws of another United States jurisdiction shall file an application with the Department together with:

- 1) Certification of graduation from an approved optometry program approved by the Department in accordance with Section 1320.20 college;

- 2) Certification A-certification of licensure from all United States jurisdictions in which the applicant has ever been licensed, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
- B) A description of the licensure examination in that jurisdiction;
- C) Whether the records of the licensing entity ~~file-on--the~~ applicant contains any record of any disciplinary actions taken or pending against the applicant;
- 3) A copy of the acts and rules in effect at the time of original licensure;

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- 4) Certification of passage of Part I and Part II, including passage after January 1, 1996, of the National Board of Examiners in Optometry (NBEO) examination, by NBEO standards;
- 5) ~~4~~ Certification of passage ~~successful~~ ~~completion~~ of Part III of the examination administered by NBEO, by NBEO standards, or a comprehensive practical examination administered in another jurisdiction equivalent to the comprehensive practical examination administered by the Department prior to July 1991;
- 6) ~~5~~ A complete work history since graduation from an optometry program; and
- 7) ~~6~~ The required fee as set forth in Section 1320.400 ~~1320-300~~.

- b) The Department shall examine each endorsement application to determine whether the requirements in the United States jurisdiction at the date of licensure were substantially equivalent to the requirements then in force in this State. If an applicant has taken a licensure examination other than Part I and Part II of the National Board prior to 1970, the examination and results will be required by the Committee to determine that substantially equivalent requirements have been met. The Department shall within a reasonable time either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.

- c) The Department may, in individual cases, upon recommendation of the Committee, in accordance with Section 11 of the Act, waive the comprehensive practical examination for an applicant for endorsement, after full consideration of his/her optometric education, training and experience, including, but not limited to, whether he/she has achieved special honors or awards, has had articles published in professional journals, has participated in writing textbooks relating to optometry, and any other attribute which the Committee accepts as evidence that such applicant has outstanding and proven ability in optometry.

(Source: Amended at 19 Ill. Reg. 17150, effective DEC 19 1995)

## Section 1320.55 Renewals (Renumbered)

(Source: ~~Section~~ Section 1320.55 renumbered to Section 1320.420 at 19 Ill. Reg. 17150, effective DEC 19 1995)

## Section 1320.60 Inactive Status

- a) Any licensed optometrist who notifies the Department in writing on forms prescribed by the Department may elect to place his/her license on inactive status and shall be excused from the payment of renewal fees until he/she notifies the Department in writing of the his desire to resume active status.
- b) Any licensee seeking restoration from inactive status shall do so in



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- accordance with Section 1320.70 of this Part.
- c) Any licensed optometrist whose license is on inactive status shall not practice optometry in the State of Illinois.
- d) Practicing optometry with a license that has been placed on inactive status shall be considered to be the unlicensed practice of optometry and subject to discipline pursuant to Section 24 of the Act.
- d+) ~~if an optometrist's license is placed on inactive status, all ancillary licenses and all optical-center-pharmaceutical-agents (GOPs) certificates shall be placed on inactive status.~~

(Source: Amended at 19 Ill. Reg. 17150 effective DEC 19 1995)

## Section 1320.70 Restoration

- a) A licensee seeking restoration of a license after it has expired or been placed on inactive status for more than 3 years shall file an application, on forms supplied by the Department, together with:

- 1) Proof of completion of the required number of continuing education (CE) hours for all pre-renewal periods for which the license was expired or on inactive status as specified in Section 1320.80 of this Part. Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs; and
- 2) The proper fees, either:

A) The restoration fee(s), when restoring an expired license, specified in Section 1320.400 1320-300(c)(1) of this Part; or

B) The renewal fee(s), when restoring an inactive license, specified in Section 1320.400 1320-300(b)(1) of this Part.

- b) In addition to satisfying the requirements of subsection (a) above, the licensee shall also submit either:

- 1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice;

- 2) An affidavit attesting to military service as provided in Section 16 of the Act. If application is made within 2 ~~two~~ years of discharge, and if all other provisions of Section 16 of the Act are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees;

- 3) Evidence of other education or experience acceptable to the Department of the licensee's fitness to have the certificate restored. Such evidence shall be reviewed on a case by case basis by the Committee; or

- 4) ~~Certification of passage Successful-completion~~ of Part III of the examination administered by NBEO, by NBEO standards. The

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

Committee may, in its discretion and in individual cases, make a recommendation to the Director for the waiver of the clinical skills examination or Part III of the examination in accordance with Section 11 of the Act based on quality of education, training and experience including, but not limited to, special honors and awards, articles published in optometry journals, writing written or participation participated in the writing of textbooks in optometry or any other circumstances or attribute which the Committee accepts as evidence that such applicant has outstanding and proven ability in optometry.

- c) A licensee seeking restoration of a license that which has expired or been on inactive status for less than 3 years, or has been placed in nonrenewed status for failure to comply with continuing education (CE) requirements shall file an application on forms provided by the Department, together with:

- 1) Proof of completion of the required number of continuing education hours for all pre-renewal periods for which the license was on inactive status as specified in Section 1320.80 of this Part. Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs; and

- 2) The restoration fee(s) specified in Section 1320.400 1320-300 of this Part. For the purpose of restoring from inactive status the Department shall consider that no renewal fees have lapsed during the period of inactive status.

- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is reasonably questioned by the Department because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration of the license will be requested to:

- 1) Provide provide such information as may be necessary; and/or
- 2) Appear appear for interview(s) before the Committee when the information available to the Committee is insufficient to evaluate the individual's current competency to practice under the Act. Upon the recommendation of the Committee, and approval by the Department, an applicant shall have the license restored.

(Source: Amended at 19 Ill. Reg. 17150 effective DEC 19 1995)

## Section 1320.80 Continuing Education

- a) Continuing Education Hour Requirements

- 1) Every renewal applicant shall complete 24 hours of Continuing Education (CE) relevant to the practice of optometry required during each pre-renewal period. A pre-renewal period is the 24 months preceding March 31 in the year of the renewal. For the March 31, 1998 renewal and every renewal thereafter, optometrists



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

who hold certification for therapeutic ocular pharmaceuticals shall, in addition to the 24 hours of CE, complete 6 hours of certified CE in the treatment of ocular disease during the prerenewal period as set forth in subsection (b)(3).

2) A CE hour equals 50 60 minutes. After completion of the initial CE hour, credit may be given in one-half hour increments.

3) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.

4) Optometrists licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.

## b) Approved Continuing Education

1) All continuing education hours must be earned by verified attendance at or participation in a program which is offered by an approved continuing education sponsor who meets the requirements set forth in subsection (c).

2) For the March 31, 1992, renewal and every renewal thereafter, as part of the 24 hours of required continuing education, each licensee shall complete during each prerenewal period at least 6 hours of credit which is certified by an approved optometry college in accordance with Section 1320.20 of this Part, osteopathic or medical college or university pursuant to the Medical Practice Act of 1987 (111-Rev-Stat.-1991-7-CH-1117-Par-4400-1--through--4400-63) [225 ILCS 60], or a pharmacy college pursuant to the Pharmacy Practice Act (111-Rev-Stat.-1991-7-CH-1117-Par-4121-through-4159) [225 ILCS 85].

A) Each certified course shall include at least 2 hours of actual course presentation and shall include the successful completion of a post-course evaluation of the attendee's understanding of the course material. A maximum of one half hour additional credit will be given for the required post course evaluation.

i) The post-course evaluation may be taken on-site immediately following the course presentation. An examination distributed on-site shall not be removed from the site.

ii) The post-course evaluation may be a correspondence evaluation mailed to the attendee and returned to the provider. The sponsor shall not distribute a post-course evaluation at the site.

iii) At the sponsor's discretion, the attendee may be allowed one retake of a failed post-course evaluation in order to receive credit as certified continuing education.

B) Licensees who attend a certified education course without passage ~~successful completion~~ of a post-course evaluation may apply actual course hours toward fulfillment of the

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

additional continuing education requirements as set forth in subsections (b)(1) and (b)(3).

C) Any approved continuing education sponsor may offer, in conjunction with the above-referenced college or university, a certified course. Effective April 1, 1996, certified continuing education shall not be provided, sponsored, co-sponsored or in any way be supported or financially underwritten by a CE sponsor or others who receive patient referrals from those in attendance. Institutions in subsection (b)(2) are not deemed in violation of this Section.

D) Transcript quality continuing education courses shall be deemed equivalent to the certified courses ~~course~~ if they meet the requirements set forth in subsection (b)(2)(A) above.

E) Continuing education sponsors shall state in their course materials the type of post-course evaluation which will be given and whether the applicant will be allowed to retake the evaluation.

F) Certified continuing education courses shall be courses in which the attendees are in actual attendance. No self instruction or correspondence courses shall be considered certified continuing education courses.

3) Six (6) hours of certified CE courses in the treatment of ocular disease are required for licensees who are certified for therapeutic ocular pharmaceuticals in addition to the 24 CE hours required to renew an optometry license.

A) For the period ending March 31, 1998, a minimum of 2 hours shall be in the study of glaucoma.

B) The certified therapeutic CE courses shall meet the same requirements set forth in subsection (b)(2) above.

C) An optometrist who has completed the 120 hour therapeutic training set forth in Section 1320.300 during the prerenewal period will be considered to have met the CE requirements for that renewal period.

4) ~~17~~ Eighteen (18) hours of CE credit may be earned as follows (not accepted for certified CE):

A) A maximum of 12 hours per prerenewal period for papers prepared and delivered before recognized optometric organizations, papers published in nationally recognized optometric journals, or a chapter in a book of optometry, each appropriately verified.

B) A maximum of 12 hours per prerenewal period for verified teaching of students at an optometry school approved by the Department, or practicing optometrists in CE programs approved by the Department. One hour of teaching at an optometry school approved by the Department is equal to one hour of continuing education.

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- C) A maximum of 2 hours per prerenewal period for verified self-instruction that ~~by--means--of--individuals--use--of audio-visual-materials--which~~ is sponsored or cosponsored by any previously approved optometry college, institution or national, state or local optometry association--~~or organization--similar--to--the--foregoing.~~
- D) A maximum of 4 hours per prerenewal period for courses in practice management which includes business management.
- E) A maximum of 2 hours of continuing education in cardiopulmonary resuscitation may be earned per prerenewal period.

5) ~~4~~ For only one prerenewal period for the duration of an optometry license in Illinois, a licensee may take a 4 hour certified continuing education course in cardiopulmonary resuscitation to satisfy 4 of the 6 hours of certified continuing education required in subsection (b)(2) above.

6) ~~5~~ Continuing education credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of the CE requirements of the State of Illinois.

7) ~~6~~ Credit shall not be given for courses taken in Illinois from unapproved sponsors.

## c) Continuing Education Sponsors and Programs

1) Sponsor, as used in this Section, shall mean a person, firm, association, corporation, or any other group that which has been approved and authorized by the Department upon the recommendation of the committee to coordinate and present continuing education courses or programs.

2) A sponsor shall file a sponsor application, along with the required fee set forth in Section 1320.400(a)(6) ~~1320-300(a)(7)~~, which includes certifies:

- A) Certification:
- i) That that all courses and programs offered by the sponsor for CE credit will comply with the criteria in ~~subsection (c) and all other criteria~~ in this Section;
  - ii) That that the sponsor will be responsible for verifying attendance at each course or program and for providing--and provide a certificate of completion as set forth in subsection (b);
  - iii) That upon request by the Department, the sponsor will submit such evidence as is necessary to establish compliance with this Section. Such evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance; and
  - iv) That that each sponsor shall submit to the Department a written notice of a course offering 30 days prior to the course date. The notice shall include the

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

description, location, date and time of the course to be offered;--

B) A history and the experience of the sponsor as an educational provider;

C) A copy of a sample program with faculty, course materials and syllabi;

D) The name and address of the contact person responsible for all recordkeeping; and

E) A list of all principals of the organization applying for a sponsor license.

3) Each sponsor shall submit by March 31 of each even numbered year a sponsor application along with the required fee set forth in Section 1320.400(b)(3) ~~1320-300(b)(5)~~ of this Part. With the application the sponsor shall be required to submit to the Department a list of all courses and programs offered in the prerenewal period, which includes a description, location, date and time the course was offered.

4) All courses and programs shall:

A) Contribute ~~contribute~~ to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of optometry;--

B) Provide ~~provide~~ experiences that which contain scientific integrity, relevant subject matter and course materials; and

C) Be developed and presented by persons with education and/or experience in subject matter of the program.

5) The tuition fees charged for programs conducted by approved sponsors shall be reasonable and directly related to the sponsor's actual expense in conducting the programs.

6) All programs given by approved sponsors shall be open to all licensed optometrists and not be limited to the members of a single organization or group and shall specify the number of CE hours and categories that may be applied toward Illinois CE requirements for licensure renewal.

## 7) Certificate of Attendance

A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:

- i) The name, sponsor number and address of the sponsor;
  - ii) The name and--address of the participant and his/her ~~their~~ optometry license number;
  - iii) A detailed statement of the subject matter;
  - iv) The number of hours actually attended in each topic;
  - v) The date of the program;--
  - vi) Whether the course qualifies for certified continuing education and if the post-course evaluation was passed or failed.
- B) The sponsor shall maintain these records for not less than 5



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

years. These records shall include all test materials utilized for certified courses.

8) The sponsor shall be responsible for assuring verified continued attendance at each program. No renewal applicant shall receive CE credit for time not actually spent attending the program.

9) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Committee (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Department receives reasonably satisfactory assurances of compliance with this Section.

d) Continuing Education Earned in Other States. If a licensee has earned CE hours in another state or territory for which he/she will be claiming credit toward full compliance in Illinois, the applicant shall submit an out of state CE approval form application along with a \$10 processing fee within 90 days of completion of the course. The Committee shall review and recommend approval or disapproval of this program using the criteria set forth in this Section. The Committee has determined that the Council on Optometric Practitioner Education (C.O.P.E.) approved courses are acceptable for out of state continuing education. If a licensee attends an out of state C.O.P.E. approved course, the licensee will not be required to submit the out of state CE approval form and the \$10 processing fee.

e) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a) above.

2) The Department may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance.

3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Committee, at which time the Committee may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act (~~1117-Rev.-Stat-19917-chr-127-par-1010-657~~ [5 ILCS 100/10-65]).

f) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of his/her license without having fully complied with these CE requirements shall file with the Department a renewal application, the renewal fee set forth in Section 1320.400(b)(1) ~~1320-300~~, a statement setting forth the facts (including time frames) concerning such non-compliance, and a request for waiver of the CE requirements on the basis of such facts. If the Department, upon the written recommendation of the Committee, finds from such affidavit or any other evidence

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

submitted, that good cause has been shown for granting a waiver, the Department shall waive enforcement of such requirements for the renewal period for which the applicant has applied.

2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

- A) Full time service in the armed forces of the United States of America during a substantial part of such period; or
- B) Extreme hardship, which shall be determined on an individual basis by the Committee and shall be limited to documentation of:

- i) An incapacitating illness documented by a currently licensed physician,
- ii) A physical inability to travel to the sites of approved programs, or
- iii) Any other similar extenuating circumstances.

3) If an interview with the Committee is requested at the time the request for such waiver is filed with the Department, the renewal applicant shall be given at least 20 days written notice of the date, time and place of such interview by certified mail, return receipt requested.

4) Any renewal applicant who submits a request for waiver pursuant to subsection (f)(1) of this Section shall be deemed to be in good standing until the Department's final decision on the application has been made.

(Source: Amended at 19 Ill. Reg. ~~17150-12~~ effective DEC 19 1995)

## Section 1320.90 Minimum Eye Examination

In the absence of good reasons to the contrary, the following minimum examination shall be performed and findings recorded by an optometrist, and he/she shall keep a record thereof for a period of 3 years:

- a) Complete case history.
- b) Visual acuity at distance.
  - 1) Unaided (mono plus binocular).
- c) Last prescription or habitual prescription (mono plus binocular).
- d) External examination, including pupil reactivity.
- e) Internal examination (ophthalmoscopic examination) (ophthalmoscopic examination).
- f) Retinoscopy.
- g) Refractive status.
  - 1) Subjective refraction to best visual acuity at distance.
  - 2) Subjective refraction at near.
- h) Measurement of binocularity: including vergences, phoric and accommodative ability.<sup>7</sup>
- i) Color vision screening.



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- i) Glaucoma screening including tonometry.

(Source: Amended 1995 at 19 Ill. Reg. **17150** effective **DEC 19 1995**)

## Section 1320.100 Practice of Optometry

- a) The practice of optometry as defined in Section 3 of the Act shall include, but not be limited to, the following functions:

- 1) Prescribing and fitting of any ophthalmic lenses including contact lenses.
- 2) Retinoscopy.
- 3) Tonometry.
- 4) Keratometry.
- 5) Subjective lens testing **lens-testing**.
- 6) Phoria testing.
- 7) Biomicroscopy.
- 8) Ophthalmoscopy.
- 9) Electronic or computerized examination techniques that utilize devices that perform any of the above functions.
- 10) Visual screening.
- 11) **Diagnosis and treatment of any ocular abnormality, disease or visual or muscular anomaly of the human eye or visual system. The diagnosis-of-anomalies-of-the-eye, adnexa-and-the-visual-system-**

## b) Visual Screening

- 1) Nothing in this Section shall prohibit visual screening conducted by a charitable organization or governmental agency, acting in the public welfare under the supervision of a committee composed of persons licensed by the State to practice optometry or medicine in all of its branches.
- 2) Visual screening is defined as a limited series of ocular observations, measurements or tests to determine if a complete eye examination, as described in Section 1320.90, by a licensed optometrist or a physician licensed to practice medicine in all of its branches, is recommended.
- 3) When a licensed optometrist performs public service visual screenings or visual screenings for governmental agencies, the recipient of the screening shall be clearly informed in writing of the following:
  - A) Results and limitations of the screening;
  - B) That the screening is not representative of or a substitute for an eye exam;
  - C) That the screening will not result in a prescription for visual correction; and
  - D) That visual screening referral criteria for a complete eye examination must meet accepted optometric professional standards criteria.
- c) No ophthalmic lenses, prisms, or contact lenses may be sold or

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

delivered to an individual without a prescription signed by a licensed optometrist or a physician licensed to practice medicine in all of its branches.

- d) The following acts shall not be performed by an individual not licensed in this State as an optometrist or to practice medicine in all of its branches except while acting under the direct supervision of a person so licensed:

- 1) Conducting or performing examinations of the human eye or its appendages employing either objective or subjective means, or both for the purpose of adapting contact lenses to the eyes of any person;
- 2) Using instruments or appliances of any type to determine the curvatures of the eye or of the cornea of any person for the purpose of ordering or supplying contact lenses for such person;
- 3) Determining, selecting or specifying the lens characteristics or the lens curvatures of contact lenses to be supplied to any person;
- 4) Converting, altering, or varying in any manner a prescription for contact lenses prepared by an optometrist or a person licensed to practice medicine in all its branches in this State;
- 5) Converting, altering, or varying in any manner a prescription for spectacles prepared by an optometrist or a person licensed to practice medicine in all of its branches in this State for the purpose of converting such prescription for spectacles into a prescription for contact lenses;
- 6) Inserting, removing, adjusting or adapting contact lenses for the purpose of selecting, specifying or furnishing contact lenses for use by any person;
- 7) Conducting or performing any examination of the human eye or its appendages employing either objective or subjective means or both for the purpose of determining the effects which may have resulted from wearing contact lenses by any person;
- 8) Where a person has been provided with contact lenses pursuant to a prescription by an optometrist or a person licensed to practice medicine in all of its branches in this State, adjusting, adapting or changing the lens characteristics or the lens curvatures of such contact lens in any manner whatsoever;
- 9) Advertising, representing or informing the general public by any means, including, but not limited to, display advertising in newspapers and telephone directories within the State of Illinois, that he/she will fit or adapt contact lenses for the use of any person.

- e) Direct supervision of any person assisting an optometrist means:

- 1) The optometrist personally performs those procedures requiring professional judgment. Professional judgment requires that the optometrist shall perform those procedures for the diagnosis and treatment of anomalies of the eye, adnexa, and the visual system, including for example, but not limited to, biomicroscopy,

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

ophthalmoscopy, all therapeutic procedures and the prescribing of any ophthalmic lenses, including contact lenses.

- 2) The optometrist shall specify all procedures to be performed by the assistant.
- 3) The optometrist is present in the facility while the assistant performs the procedure (does not mean that the optometrist must be present with the patient while the specified procedures are being performed).
- 4) The optometrist approves the results of the procedures performed by the assistant before dismissal of the patient.
- f) Requirements for the minimum eye exam as outlined in Section 1320.90 are still applicable and are not changed or altered by the above provisions.

(Source: Amended 19 Ill. Reg. 17150.22, effective DEC 19 1995)

**Section 1320.110 Advertising**

- a) The name of the licensed optometrist shall be conspicuously displayed at the entrance of each office or store where eyecare and eyewear services are offered. In an establishment where other services or goods are offered in addition to eyecare and eyewear, the name of the optometrist shall be conspicuously displayed at the entrance of the eyecare and eyewear section.
- b) All advertising of optometric services, including, but not limited to, the advertising of optometric examinations in connection with the advertising of optical goods, shall contain the statement that all optometric services are performed by a licensed optometrist.
- c) Only a licensed optometrist optometrist and a physician licensed to practice medicine in all of its branches are permitted to advertise or imply that they are authorized to measure the power of vision.
- d) Only licensed optometrists therapeutically certified are permitted to advertise or imply provision of eye disease treatment or emergency ocular services.
- e) Nothing in this Section shall prohibit any person licensed in this State under any other Act from advertising services for which he/she is licensed to provide.

(Source: Amended at 19 Ill. Reg. 17150.53, effective DEC 19 1995)

**Section 1320.120 Granting Variances (Renumbered)**

(Source: Section 1320.120 renumbered to Section 1320.430 at 19 Ill. Reg. 17150.52, effective DEC 19 1995)

SUBPART B: DIAGNOSTIC TOPICAL OCULAR PHARMACEUTICALS

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

**Section 1320.200 Definitions and Standards**

- a) An optometrist's certification to use diagnostic topical ocular pharmaceutical agents for examination purposes shall be revoked, suspended and/or placed on probation and fines may be levied by the Department upon recommendation of the Committee based upon any of the following causes:
  - 1) The use of any diagnostic topical ocular pharmaceutical agent that has not been approved for use by the Department;
  - 2) The misuse of any diagnostic topical ocular pharmaceutical agent where the optometrist knew or should have known that such use was improper or contraindicated;
  - 3) The use of any diagnostic topical ocular pharmaceutical agents for patients who have had intraocular lens implants except for the use of Proparacaine HCL (0.5%) and Benoxinate HCL (0.4%) for assisting in the measurement of intraocular pressure, except by licensed optometrists certified in therapeutic ocular pharmaceutical agents pursuant to Subpart C;
  - 4) The use of any topical ocular pharmaceutical agents for children who are less than 2 years of age, except by licensed optometrists certified in the use of therapeutic ocular pharmaceutical agents pursuant to Subpart C; or
  - 5) Any other violation of the Act or this Part.

~~When used in this Subpart, "Board" shall mean the Technical Review Board:~~

- ~~b) When used in this Subpart, approved agents shall mean those topical ocular pharmaceutical agents approved by the Department for use by properly-certified-registered-optometrists.~~
- ~~b)c) In determining what constitutes grave or repeated misuse of any topical ocular pharmaceutical agent, the Committee Board shall consider the following standards as they relate to the person who is the subject of the proposed disciplinary action. The standards shall include but not be limited to:~~
  - 1) A consideration whether the act or acts of the person are of a ~~flagrant or~~ glaringly obvious nature or are repetitiously committed and resulted in a breach of standards of practice;
  - 2) A consideration that said act or acts committed constituted a breach of standards of practice to possess and apply the knowledge, ~~and use the~~ skill and care in using approved diagnostic topical ocular pharmaceutical agents for the purpose of aiding the diagnosis of abnormal conditions that are ordinarily used by an optometrist certified under Section 15.1 ~~4-1~~ of the Act.
  - 3) A consideration that a mere mistake which is not indicative of a lack of knowledge, skill and care does not constitute misuse. Nor is a bad or unexpected result evidence of misuse unless such a result would not ordinarily occur in the absence of misuse.
  - 4) A consideration that in determining the applicable standard of



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

use, the Committee Technical--Review--Board shall consider the opinion and the testimony of experts--and--may--also--consider--books and--treatises--brought--to--its--attention--or--introduced--by--the parties--in--disputary--proceedings--irrespective--of--whether these--would--otherwise--be--admissible.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective  
17150  
DEC 19 1995)

## Section 1320.210 Application for Diagnostic Certification

A licensed registered optometrist seeking certification to use diagnostic topical ocular pharmaceutical agents for examination purposes shall file an application with the Department, on forms provided by the Department. The application shall include:

- a) Either
- 1) Certification that the applicant has graduated within 2 years prior to application for diagnostic certification from an approved 4 year Optometry program and proof of passage of all parts of the NBEO examination; or if the applicant was licensed (in Illinois) as an optometrist after January 1, 1978, based on a NBEO examination which included pharmacology, the applicant shall have completed and passed within the two years prior to application either:

- 1a) A course of pharmacological training approved in accordance with the provisions of 1320.220 of this Part; OR
  - 2) The Ocular Pharmacology Section of the Written Theoretical examination of the National Board of Examiners in Optometry.
- 2b) Certification of passage of a diagnostic topical ocular pharmaceutical course set forth in Section 1320.220 of this Part within 2 years prior to application; If the applicant was licensed (in Illinois) as an optometrist prior to January 1, 1978, or who does not meet the provisions of subsection (a) above, the applicant shall have completed and passed within the two years prior to application a course of training as specified in subsection (a)(1) above:

- b) The required fee set forth in Section 1320.400(a)(2) of this Part. Any applicant who takes and fails to pass the Pharmacology Section of the NBEO examination subsequent to completing and passing an approved course of training, shall be required to retake and pass such examination:

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective  
DEC 19 1995)

## Section 1320.220 Approved Diagnostic Topical Ocular Pharmacological Training

The Department shall, upon the recommendation of the Committee Board, approve a

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

program of diagnostic topical ocular pharmacological training which that meets the following minimum requirements:

- a) The program has a faculty that comprises which--is--comprised--of a sufficient number of full-time instructors to make certain that the educational obligations to the students student are fulfilled. The faculty must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from accredited reputable colleges or institutions;
- b) The program has a curriculum of at least the following subject areas:
  - 1) General principles of drug action
    - A) Definition of terms
      - i) Drug
      - ii) Pharmacology
    - B) Medical uses of drugs
      - i) Therapeutic drugs
      - ii) Symptomatic therapeutic agents
      - iii) Prophylactics
      - iv) Adjunctives
      - v) Diagnostics
    - C) Non-medical uses of adjunctives
    - D) Dose-response relationships
      - i) By drug classification
      - ii) Consideration of polyvalence--main effects and side effects
    - E) Drug disposition
    - F) Concepts of potency, toxicity, safety, tolerance
  - 2) Routes of drug administration
    - A) Systemic
    - B) Topical
  - 3) Dosage forms
    - A) Comparative properties
    - B) Prescription (legend) products and over-the-counter (OTC) products
  - 4) Sources of drug information
    - A) Composition of commercial products
    - B) Generic--trade name equivalents
    - C) Indications and adverse effects
    - D) Drug regulations
  - 5) Specific drug classes
    - A) Miotics, mydriatics and cycloplegic drugs
      - i) Neurotransmitter functions
      - ii) Drug modification of transmitter functions
      - iii) Clinical uses
    - B) Drugs used to treat glaucoma
    - C) Local anesthetics
      - i) Chemical nature
      - ii) Sites of administration
      - iii) Mechanisms of action



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- iv) Duration and toxicity
- D) Problems of sterility, disinfection, and asepsis related to optometric practice
- E) Pharmaceutical agents used in ocular examination
- 6) Ocular side effects of drugs systemically administered
- A) Relationship of age, amount given, health, and idiosyncrasies
- B) Drugs in current use
- C) Drugs of current abuse
- 7) Over-the-counter ophthalmic preparation (including those used with contact lenses)
- A) Types
- B) Consideration of preservatives in them
- 8) Anti-infective therapy
- A) Antibacterial drugs
- B) Fungistatic drugs
- C) Antiviral drugs
- 9) Anti-inflammatory therapy
- A) Antihistamines
- B) Steroids
- C) Sympathomimetic amines
- 10) Principles of CPR
- c) The program includes a minimum of 55 instructional hours, and requires for program completion the passage of a comprehensive examination designed to test the student's students knowledge of and ability to apply the program's subject matter.
- d) The Department, upon the recommendation of the Committee Board, has determined that courses of pharmacological training which are an integrated part of any program of optometry approved in accordance with the provisions of Section 1320.20 of this Part meet the criteria specified herein, and are, therefore, approved.
- e) Program Evaluation
- 1) An applicant from a diagnostic pharmacological training program that has not been evaluated will be requested by the Department to provide documentation concerning the criteria in this Section.
- 2) Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever comes first, the Committee Board will evaluate the program based on all documentation received from the program and any additional information the Department has received which it deems to be reliable.
- f) The Department may shall, upon the recommendation of the Committee Board, withdraw the approval of any program of pharmacological training for any of the following grounds:
- 1) Fraud or dishonesty in applying for approval;
- 2) Failure to continue to meet the criteria for an approved program as stated in this Section.
- g) A program whose approval is being reconsidered shall be given written

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

notice prior to any recommendation by the Committee Board, and the officials in charge may either submit written comments or request a hearing before the Committee Board.

(Source: Amended at 19 Ill. Reg. 17150, effective DEC 19 1995)

### Section 1320.230 Approved Diagnostic Topical Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act

- a) The following diagnostic topical ocular pharmaceutical agents are approved for use by only diagnostically certified optometrists Registered-Optometrists-certified-under-Section-411-of-the-Act:
- 1) Proparacaine HCL (0.5%)
  - 2) Benoxinate HCL (0.4%)
  - 3) Tropicamide (0.5% and 1.0%)
  - 4) Cyclopentolate (0.5% and 1.0%)
  - 5) Atropine Sulfate (ointment) (0.5%)
  - 6) Homatropine (2.0% and 5.0%)
  - 7) Phenylephrine HCL (2.5%)
  - 8) Hydroxyamphetamine-Hydrobromide-(1-0%)
- b) The Department shall, upon the recommendation at least--5--members of the Board Committee, approve other topical anesthetics, cycloplegics and mydriatics that which meet the following criteria:
- 1) Such such agents have been approved for topical use by the U.S. Food and Drug Administration;
  - 2) Such such agents offer a diagnostic alternative or advantage over the existing list of approved agents; and
  - 3) Such such agents have been determined, in the judgement of the Committee Board, to be beneficial with no substantial risk to the ultimate consumer.

(Source: Amended at 19 Ill. Reg. 17150, effective DEC 19 1995)

### Section 1320.240 Restoration of Diagnostic Certification

- a) A certification that which has lapsed or been on inactive status for less than 3 five years shall be restored upon application to the Department, proof of a current Illinois optometric license and upon payment of the required fees specified in Section 1320.400(c)(1) of this Part 23-of-the-Act.
- b) A certification that which has lapsed or been on inactive status for more than 3 five years shall be restored with proof of a current Illinois optometric license and submission upon of an application to the Department, which shall include the following:
- 1) Sworn evidence of active practice in another jurisdiction that which allows the use of diagnostic topical ocular pharmaceutical

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

agents. Such evidence shall include a statement from the appropriate licensing authority in the other jurisdiction that the licensee registrant was authorized to practice during the term of said active practice and indicates if any disciplinary action has been taken or is pending; or

- 2) Other evidence that the applicant has maintained competence in use of diagnostic topical ocular pharmaceuticals. Such evidence shall be evaluated on an individual basis by the Committee Board and may include:

- A) Teaching teaching ocular pharmacology in an educational program approved in accordance with Section 1320.220 of this Part; or
- B) Research research in ocular pharmacology, or application of passage successful-completion within the year preceding Section 1320.220 of this Part; or
- 4) Proof-of-successful-completion-within-the-year-preceding application-of-the-Board-Pharmacology-Section-of-the-examination of-the-National-Board-of-Examiners-in-Optometry

- 4) The required fees set forth in Section 1320.400(c)(1).
- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is reasonably questioned by the Department or the Committee because of lack of information, discrepancies or conflicts in information given or a need for clarification discrepancies-or-conflicts-in-information-needing further-classification-and-or-missing-information, the applicant registrant seeking restoration of the his certification will be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) explain-such-relevance-or-sufficiency-during-an-oral-interview or

- 2) 3) Appear appear for an additional oral interview(s) before the Committee Technical-Review-Board-when-the-information-available to-the-Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information in order to-is-insufficient to evaluate the individual's current competency to use diagnostic topical ocular pharmaceutical agents. Upon the recommendation of the Committee and approval by the Department Technical-Review-Board, the applicant shall have the his certification restored.

(Source: Amended at 19 Ill. Reg. 17150, effective DEC 9 1995)

## Section 1320.250 Endorsement of Diagnostic Certification Certificate

- a) An applicant licensed to practice optometry in another jurisdiction after January 1, 1988, shall be required to apply for and obtain

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

certification to use diagnostic topical ocular pharmaceutical agents a ~~TOPS-permit~~ in conjunction with his/her optometry license.

- b) An applicant who is licensed or certified under the laws of another jurisdiction to use diagnostic topical ocular pharmaceutical agents for examination purposes shall file an application with the Department, on forms provided by the Department, together with:
- 1) An application for licensure as an optometrist in the State of Illinois and meet the requirements set forth in the Act and Section 1320.50 for such licensure;

- 2) A certification from the licensing authority of the jurisdiction of original licensure, and any other jurisdiction in which the applicant is licensed, stating:

- A) The time during which the applicant was licensed in that state;
- B) Whether the file on the applicant contains any record of any disciplinary actions taken or pending;
- C) A description of the examination and grade received;

- 3) A description of the diagnostic topical ocular pharmaceutical TOPS training received;

- 4) A copy of the acts and rules from the original state of licensure in effect at the time of original-certification-or licensure; and

- 5) The required fee set forth in Section 1320.400 ~~1320-399~~.
- c) An applicant who is licensed as an optometrist in another jurisdiction, whose optometry license includes the ability to use topical ocular pharmaceuticals, will be eligible to receive diagnostic topical ocular pharmaceutical certification issued-a-TOPS-certificate by the Department if he/she meets the requirements set forth in subsection (b) above.

- d) The applicant may be required to appear before the Committee Board:

- 1) To clarify or explain information contained on the submitted documentation; or
- 2) To determine the substantial equivalence of the applicant's qualifications to the licensing requirements in this State pursuant to Section 15.1 ~~15et~~ of the Act.

(Source: Amended at 19 Ill. Reg. 17150, effective DEC 9 1995)

## Section 1320.260 Renewal of Certification (Repealed)

Every certification issued under the provisions of Section 4-1 of the Act shall expire on the expiration date of the holder's superior license to practice optometry. Such certification may be renewed by paying the required fee.

(Source: Repealed at 19 Ill. Reg. 17150, effective DEC 9 1995)

## Section 1320.270 Display of Certification (Repealed)



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

Every certification issued under the provisions of Section 4-1 of the Act shall be prominently displayed alongside the holder's license to practice optometry.

(Source: Repealed at 19 Ill. Reg. 17150, effective DEC 19 1995)

## SUBPART C: THERAPEUTIC OCULAR PHARMACEUTICAL AGENTS GENERAL

## Section 1320.300 Definitions and Standards Fees

a) Ophthalmic emergency care involves an acute condition that in the judgment of the optometrist may be sight threatening, requires the optometrist to initiate nonsurgical emergency procedures and requires patient referral and consultation with another appropriate health care professional.

b) Any optometrist certified to use therapeutic ocular pharmaceutical agents shall be authorized to purchase such drugs and to utilize and to prescribe such drugs in the regular course of practicing optometry. The use of the drugs shall be the personal act of the person certified to use therapeutic ocular pharmaceutical agents and may not be delegated to any other person. A signed written prescription for legend drugs must be presented to the patient, if applicable, and the optometrist shall be required to keep a copy of all prescriptions written.

c) An optometrist's certification to use therapeutic ocular pharmaceutical agents may be revoked, suspended or placed on probation and fines levied by the Department upon recommendation of the Committee based upon any of the following causes:

- 1) The use of any therapeutic ocular pharmaceutical agent that is not approved for use;
- 2) The misuse of any therapeutic ocular pharmaceutical agent or procedure where the optometrist knew or should have known that such use was improper or contraindicated;
- 3) Failure to take reasonable steps to ensure or arrange for follow-up care or for referral of a patient to an appropriate health care professional after providing ophthalmic emergency care;
- 4) Any other violations of the Act or this Part.
- d) In determining what constitutes grave or repeated misuse of any topical ocular pharmaceutical agent, the Committee shall consider the following standards as they relate to the person who is the subject of the proposed disciplinary action. The standards shall include but not be limited to:
  - 1) A consideration of whether the act or acts of the person are of a glaringly obvious nature or are repetitiously committed and resulted in a breach of standards of practice;
  - 2) A consideration that said act or acts committed constituted a

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

breach of standards of practice to possess and apply knowledge, skill and care in using approved therapeutic ocular pharmaceutical agents for the purpose of aiding the treatment of abnormal conditions that are ordinarily used by an optometrist certified under Section 15.1 of the Act.

- 3) A consideration that a mere mistake that is not indicative of a lack of knowledge, skill and care does not constitute misuse. Nor is a bad or unexpected result evidence of misuse unless such a result would not ordinarily occur in the absence of misuse.
- 4) A consideration that, in determining the applicable standard of use, the Committee shall consider the opinion and the testimony of experts.

(Source: Section 1320.300 renumbered to Section 1320.400, new Section 1320.300 added at 19 Ill. Reg. 17150, effective DEC 19 1995)

## Section 1320.310 Application for Therapeutic Certification Ancillary Licenses and Certificates

A licensed optometrist seeking certification to use therapeutic ocular pharmaceutical agents for examination purposes shall file an application with the Department, on forms provided by the Department:

## a) Either:

- 1) Certification signed by the Dean of the applicant's optometry program that the applicant has successfully completed 30 hours of therapeutic ocular training in systemic disease. The training shall have been integrated in the optometric training and shall have been taught by medical faculty who are credentialed in the appropriate medical specialties that would be equivalent to the requirements set forth in Section 1320.320(b)(2). Only optometrists who graduated from an optometry program approved by the Department in accordance with Section 1320.20 after January 1, 1994 are eligible to apply under this subsection;

- 2) Certification of training and proof of completion of an approved therapeutic ocular pharmaceutical course as set forth in Section 1320.320 of this Part. Such course shall have been taken after January 1, 1994.

- b) Proof of diagnostic ocular pharmaceutical certification in accordance with Subpart B.

- c) The required fee set forth in Section 1320.400(a)(2) of this Part.

(Source: Section 1320.310 renumbered to Section 1320.410, new Section 1320.310 added at 19 Ill. Reg. 17150, effective DEC 19 1995)

## Section 1320.320 Approved Therapeutic Ocular Training



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

The Department shall, upon the recommendation of the Committee, approve a program of therapeutic ocular training that meets the following minimum requirements:

- a) The program has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled.
  - 1) The faculty must have demonstrated competence in the area of pharmacological training as evidenced by appropriate degrees from accredited colleges or institutions.
  - 2) The medical component of the course shall be taught by physicians licensed to practice medicine in all of its branches with appropriate specialty credentials. They shall be members of the faculty for the 4 year professional optometry program and have appropriate input into the development, presentation and testing of the course.
- b) The program shall have a curriculum of a minimum of 120 total contact hours. At least 90 hours shall be lecture and at least 30 hours shall be practical laboratory which shall include foreign body removal and clinical patient care. The lecture portion of the course is subject to the following criteria:
  - 1) At least 60 hours taught by faculty members (referenced in (a)(1) above) of the college or university sponsoring the course in the following subject areas:
    - A) Anatomy and Physiology Considerations in Ocular Disease - 5 hours minimum
    - B) Pharmacology of Therapeutic Agents - 10 hours minimum
    - C) Specific Ocular Disease Considerations - 15 hours minimum
      - i) Bacterial
      - ii) Viral and Chlamydial
      - iii) Allergic
      - iv) Fungal
    - D) Clinical Diagnosis and Treatment of Anterior Uveitis
    - E) Clinical Diagnosis and Management of Posterior Uveitis
    - F) Lacrimal Disorders
    - G) Other Ocular Diseases/Disorders - 15 hours minimum
    - H) Pre-Post Operative Cataract Care
      - i) Integration of nervous system assessment and neuro-ophthalmic disorders
      - ii) Practical Management of Ocular Emergencies
      - iii) Diabetic Complications - Diabetic Retinopathy
      - iv) Sudden Vision Loss
    - I) Glaucoma Diagnosis, Treatment and Management - 10 hours minimum
      - i) Pathophysiology of Glaucoma
      - ii) Open Angle Glaucoma
      - iii) Angle Closure Glaucoma
      - iv) Pharmacology of Glaucoma
    - J) Clinical Laboratory Tests and Services - 3 hours minimum

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- 2) At least 30 hours of Clinical Medical Perspectives/Primary Care Medicine for the Ophthalmic Practitioner that shall be taught by medical faculty members (as referenced in subsection (a)(2) above). The 30 hours shall be in the following subject areas:
  - A) Cardiovascular Disease
  - B) Respiratory Disorders (e.g., pulmonary)
  - C) Immunology
  - D) Infectious Disease
  - E) Dermatology
  - F) Cataract Surgery - 2 hours maximum
  - G) General Medical Emergency
  - H) Endocrinology
  - I) Collagen Vascular Disease
- c) The program shall require passage of a comprehensive examination(s) designed to test the student's knowledge, competence and ability to apply the program's subject matter.
  - 1) The comprehensive examination(s) shall be administered and proctored by the teaching institution's faculty at the site where the course is given or at the institution.
  - 2) Verification of student identification shall be required.
  - 3) The comprehensive examination(s) shall not be take home, open book or collaborative examination(s).
  - 4) The content of all examinations shall be made available to the Department for review upon request.
- d) The program shall not be provided, sponsored, co-sponsored or in any way be supported or financially underwritten by a sponsor or others who receive patient referrals from those in attendance. Approved colleges or institutions are exempt from this provision.
- e) Program Evaluation
  - 1) An applicant from a pharmacological training program that has not been evaluated will be requested by the Department to provide documentation concerning the criteria in this Section.
  - 2) Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever comes first, the Committee will evaluate the program based on all documentation received from the program and any additional information the Department has requested.
- f) The Committee may withdraw the approval of any program of pharmacological training for any of the following grounds:
  - 1) Fraud or dishonesty in applying for approval;
  - 2) Failure to continue to meet the criteria for an approved program as stated in this Section.
- g) A program whose approval is being reconsidered shall be given written notice prior to any recommendation by the Committee, and the officials in charge may either submit written comments or request a hearing before the Committee in accordance with 68 Ill. Adm. Code 1010.

(Source: Added at 19 Ill. Reg. 17150, effective \_\_\_\_\_,

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

DEC 19 1995

**Section 1320.330 Approved Therapeutic Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act**

a) The following categories of therapeutic ocular pharmaceutical agents are approved for use by licensed optometrists certified under Section 15.1 of the Act:

- 1) Topical Anti-Infective Agents
- 2) Topical Anti-Allergy Agents
- 3) Topical Anti-Glaucoma Agents
- 4) Topical Anti-Inflammatory Agents
- 5) Topical Anesthetic Agents
- 6) Over the Counter Agents
- 7) Non-Narcotic Oral Analgesic Agents
- 8) Mydriatic Reversing Agents

b) Licensed optometrists therapeutically certified shall be permitted to use anesthetics, mydriatics, cycloplegics and miotics.

(Source: Added 19 Ill. Reg. 17150 effective 12-19-95)

**Section 1320.340 Restoration of Therapeutic Certification**

a) A therapeutic certification that has lapsed or been on inactive status for less than 3 years shall be restored upon application to the Department, payment of the required fees specified in Section 1320.400(c)(1) of this Part, a current Illinois optometric license, diagnostic topical ocular pharmaceutical certification and proof of completion of continuing education pursuant to Section 1320.90 of this Part.

b) A therapeutic certification that has lapsed or been on inactive status for more than 3 years shall be restored upon proof of a current Illinois optometric license, proof of a diagnostic topical ocular pharmaceutical certification and submission of an application to the Department, which shall include the following:

- 1) Sworn evidence of active practice in another jurisdiction that allows the use of equivalent therapeutic ocular pharmaceutical agents. Such evidence shall include a statement from the appropriate licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice and that indicates if any disciplinary action has been taken or is pending; or
- 2) Other evidence that the applicant has maintained competence in the use of therapeutic ocular pharmaceuticals. Such evidence shall be evaluated on an individual basis by the Committee and may include:
  - A) Teaching therapeutic ocular pharmacology in an educational

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

program approved in accordance with Section 1320.220 of this Part; or

- B) Research in therapeutic ocular pharmacology; or
- 3) Proof of successful completion within the year preceding application of an approved training program as specified in Section 1320.320 of this Part;
- 4) The required fee set forth in Section 1320.400(c)(1) of this Part.

c) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Department because of lack of information, discrepancies or conflicts in information given or a need for clarification, the licensee seeking restoration of the certification will be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview(s) before the Committee to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information in order to evaluate the individual's current competency to use therapeutic ocular pharmaceutical agents.

(Source: Added 19 Ill. Reg. 17150 effective DEC 19 1995)

**Section 1320.350 Endorsement of Therapeutic Certification**

a) An applicant who was originally licensed to practice optometry in another jurisdiction after January 1, 1996 shall be required to apply for and maintain therapeutic ocular pharmaceutical certification.

b) An applicant who is licensed or certified under the laws of another jurisdiction to use equivalent therapeutic ocular pharmaceutical agents shall file an application with the Department, on forms provided by the Department, together with:

- 1) An application for licensure as an optometrist and an application for certification of diagnostic topical ocular pharmaceuticals in the State of Illinois;
- 2) A certification from the licensing authority of the jurisdiction of original licensure, and any other jurisdiction in which the applicant is licensed, stating:
  - A) The time during which the applicant was licensed in that state;
  - B) Whether the records of the licensing entity contain any record of disciplinary actions taken or pending against the applicant;
  - C) A description of the examination and grade received;

3) A certification of education and a transcript of the therapeutic ocular pharmaceutical agent training received and any continuing education completed in therapeutics. The therapeutic training shall be equivalent to the training set forth in Section 1320.320



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- and shall have been completed after January 1, 1994;  
 4) A copy of the acts and rules in effect at the time of original certification or licensure; and  
 5) The required fee set forth in Section 1320.400.

## c) The applicant may be required to appear before the Committee:

- 1) To clarify or explain information contained on the submitted documentation; or  
 2) To determine the substantial equivalence of the applicant's qualifications to the licensing requirements in this State pursuant to Section 15.1 of the Act.

(Source: Added at 19 Ill. Reg. 17150.03, effective October 9, 1995)

## SUBPART D: GENERAL

Section 1320.400 1320-300 Fees

## a) Application fees.

- 1) The fee for application for an original a license as an optometrist is \$500 \$200. This fee includes the optometry license, diagnostic certification and therapeutic certification. ~~Effective-April-17-1994-the-fee-will-be-\$250-~~

- 2) The fee for currently licensed optometrists applying application for both diagnostic certification and therapeutic certification is \$50. The fee for currently licensed optometrists applying for a diagnostic certification is \$50. The fee for currently licensed optometrists applying for a therapeutic certification is \$50.

- 3) The fee for application for an ancillary optometric license is \$50 per location \$100. This fee includes any certifications held by the licensed optometrist.

- 4) ~~The-fee-for-application-for-an-ancillary-optical-topical-ocular-pharmaceutical-licensing-is-\$50-~~

- 4) Applicants for any examination shall be required to pay, either to the Department or its designated testing service, a fee covering the cost of determining the applicant's eligibility and providing the examination.

- 5) The fee for application for licensure of from a person licensed as an optometrist in another jurisdiction is \$500 \$200. ~~Effective-April-17-1994-the-fee-will-be-\$250-~~

- 6) The fee for a sponsor of continuing education \$500.

## b) Renewal fees

- 1) The fee for renewal of an optometrist license is \$200 \$125 per year. The fee includes renewal of the diagnostic and therapeutic certifications.

- 2) ~~The-fee-for-renewal-of-a-topical-ocular-pharmaceutical~~

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

~~certificate-is-\$37-50-per-year-~~

- 2) The fee for renewal of an ancillary optometry license is \$50 per year for each location. This fee includes ancillary diagnostic and therapeutic certifications.

- 4) ~~The-fee-for-renewal-of-an-ancillary-topical-ocular-pharmaceutical-licensing-is-\$40-per-year-~~

- 3) The fee for renewal as a sponsor of continuing education is \$250 \$125 per year.

## c) General fees

- 1) The fee for restoration of a license other than from inactive status is \$50 \$20 plus payment of all lapsed renewal fees. For the purposes of restoring from inactive status, the Department shall consider that no renewal fees have lapsed during the period of inactive status.

- 2) The fee for issuance of a duplicate license or certificate or for the issuance of a replacement license for a license which has been lost or destroyed is \$50 \$20.

- 3) The fee for the issuance of a license or certificate with a change of name or address other than during the renewal period is \$50 \$20. No fee is required for name and address changes on Department records when no duplicate license is replaced.

- 4) ~~The-fee-to-have-the-scoring-of-an-examination-reviewed-and-verified-by-the-department-is-\$20-plus-any-fee-charged-by-the-applicable-testing-service-to-rescore-the-examination-~~

- 4) The fee for the certification of a license licensee's record ~~(e.g., license status, examination information) for any purpose is \$50 \$20.~~

- 5) The fee for a wall certificate showing licensure is the actual cost of producing the license.

- 6) The fee for a roster of persons licensed under the Act is the actual cost of producing the roster.

(Source: Section 1320.400 renumbered from Section 1320.300 and amended at 19 Ill. Reg. 17150.03 effective October 9, 1995)

Section 1320.410 1320-310 Ancillary Licenses

- a) Ancillary license, as used in this Part, shall mean an optometry license that which is issued pursuant to Section 7 of the Act to a licensed optometrist who is engaged in the practice of optometry at more than one address. The ancillary license will include diagnostic certification and/or therapeutic certification.

- b) ~~Ancillary-certification-is-used-in-this-Part-shall-mean-a-topical-ocular-pharmaceutical-agents-(POPS)-certificate-which-is-issued-pursuant-to-section-7-of-the-act-to-a-licensed-optometrist-who-is-engaged-in-the-practice-of-optometry-at-more-than-one-address-~~

- b) Each ancillary license and certificate shall be displayed in accordance with Section 6 of the Act.



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

- c)† An ancillary license or-ancillary-certificate shall be issued to a licensed optometrist upon submitting a completed application to the Department, on forms provided by the Department, and the required fee set forth in Section 1320.400(a)(3) 1320-300 of this Part. The application shall include the address of the branch office location for which the license or-certificate will be issued.
- d)† An optometrist shall be required to obtain an a-separate ancillary license or-certificate for each branch additional location and to display the appropriate ancillary licenses at each location. Licensees may examine one new patient at facilities licensed by the Illinois Department of Public Health or their residence per address per month without an ancillary license.

(Source: Section 1320.410 renumbered from Section 1320.310 and amended at 19 Ill. Reg. 17150, effective DEC 19 1995.)

Section 1320.420 1320-55 Renewals

- a) Every license issued under the Act shall expire on March 31 of each even numbered year. The holder of a license may renew such license during the month preceding the expiration date thereof by paying the required fee and completion of continuing education requirements set forth in Section 1320.80.
- b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee and to renew the license in a timely manner.
- c) Practicing after a license has expired shall be considered the unlicensed practice of optometry and subject to discipline pursuant to Section 24 of the Act.

(Source: Section 1320.420 renumbered from Section 1320.55 at 19 Ill. Reg. 17150, effective DEC 19 1995.)

Section 1320.430 1320-120 Granting Variances

- a) The Director may grant variances from this Part in individual cases where he/she finds that:
- 1) The provision from which the variance is granted is not statutorily mandated;
  - 2) NO party will be injured by the granting of the variance; and
  - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Optometry Examining and Disciplinary Committee of the granting of such variance, and the reasons therefor, at the next meeting of the Committee.

(Source: Section 1320.430 renumbered from Section 1320.120 and amended at

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT(S)

19 Ill. Reg. 17150, effective DEC 19 1995.)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Admissions and Credentials
- 2) Code Citation: 11 Ill. Adm. Code 1428
- 3) Section Number: Adopted Action: Amendment  
1428.30
- 4) Statutory Authority: 230 ILCS 5
- 5) Effective Date of Rule: January 1, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) Date filed in Agency's Principal Office: December 18, 1995
- 9) Notice of Proposal Published in Illinois Register: 19 Ill. Reg. 11446, August 11, 1995
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Differences between proposal and final version: Changed "October 16, 1990" to "October 26, 1990" in the main source note.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? N/A
- 13) Will these amendments replace emergency amendments currently in effect?  
No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rules: This rulemaking changes the weekly remittance day for taxes from Monday to Thursday.
- 16) Information and questions regarding these adopted amendments shall be directed to:  
Gina DiCaro  
Illinois Racing Board  
Legal Department  
100 West Randolph, Suite 11-100  
Chicago, Illinois 60601  
(312) 814-5070.

The full text of the adopted amendments begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER 1: ILLINOIS RACING BOARD  
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING (THOROUGHBRED)

PART 1428  
ADMISSIONS AND CREDENTIALS

Section	
1428.10	State Admissions Tax
1428.20	Admission Records
1428.30	Weekly Remittance of Tax
1428.40	Admission Statements
1428.50	Delivery of Reports
1428.60	Board Approval of Tickets and Credentials
1428.70	Control Numbers
1428.80	Revocation of Tickets, Credentials
1428.90	Notice of State Tax
1428.100	Credential and Ticket Specimens
1428.110	Gate Cards
1428.120	Tax Exempt Credentials
1428.130	Report on Tax Exempt Credentials
1428.140	Concessionaires, Employees Credentials
1428.150	Requisitions for Passes
1428.160	Tax Exempt Credentials Report (Repealed)
1428.170	Summary of Tickets and Credentials
1428.180	Track Responsible for Credentials
1428.190	Board Access to Records
1428.200	Turnstiles
1428.210	Admission to Track
1428.220	Revocation of Credentials
1428.230	Admissions for Licensees
1428.240	Intertrack Wagering Location Licensee Admission Fees

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); amended March 14, 1975, filed and effective March 27, 1975; codified at 5 Ill. Reg. 11002; amended at 14 Ill. Reg. 17633, effective October 26, 1990; amended at 14 Ill. Reg. 20042, effective December 4, 1990; emergency amendment at 17 Ill. Reg. 3683, effective March 4, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 14049, effective August 16, 1993; amended at 19 Ill. Reg. 1778, effective ~~August 16, 1993~~ **JANUARY 1, 1996**.

Section 1428.30 Weekly Remittance of Tax

The tax due hereunder shall be paid to the Board weekly and remittance made to

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENTS

the Board on **Thursday Monday** following the close of each week. The operator shall enclose with his remittance to the Board a sworn itemized statement signed by his treasurer or comptroller, showing the total attendance, the number of admissions, both paid and complimentary, the number of taxable and tax free admissions for each day of the preceding week.

(Source: Amended at 19 Ill. Reg. 17187 effective  
JAN 01 1995 )

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Licensing
- 2) Code Citation: 11 Ill. Adm. Code 502
- 3) Section Number: Adopted Action:  
502.820 Amendment
- 4) Statutory Authority: 230 ILCS 5
- 5) Effective Date of Rule: January 1, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) Date filed in Agency's Principal Office: December 18, 1995
- 9) Notice of Proposal Published in Illinois Register: 19 Ill. Reg. 12961, September 15, 1995.
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Differences between proposal and final version: The sentence "The Board shall deny any application for a dual license when it determines that a conflict will exist between the privileges and duties of each license type." was added after "Board" in subsection a. The main source note was corrected.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rules: This rulemaking establishes that dual licensing of jockeys, veterinarians, totalizator employees or farriers shall be prohibited unless approved by the Board.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Gina DiCaro  
Illinois Racing Board, Legal Department  
100 West Randolph, Suite 11-100  
Chicago, IL 60601



## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENTS

(312) 814-5070

The full text of the adopted amendments begins on the next page:

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER C: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

## PART 502

## LICENSING

## SUBPART A: PROCEDURE

## Section

502.10 Submission of Application  
502.20 Complete Application  
502.30 License Fees  
502.40 Duration and Extent of Occupation Licenses  
502.50 Rulings and Hearings  
502.55 Denial of License  
502.58 License to Participate

## SUBPART B: STATUTORY GROUNDS FOR DENIAL OF A LICENSE

## Section

502.60 Denial of a License for Criminal Conviction  
502.72 First-Time Applicant Who Has Been Convicted of a Crime  
502.76 Prohibitions Against Persons on Conditional Discharge, Parole, Probation or Supervision  
502.78 Probationary Nature of Licenses  
502.80 Unqualified to Perform the Duties  
502.90 Falsifying Answers or Omitting Facts  
502.100 Just Cause  
502.102 Burden of Going Forward  
502.104 Denial of a License for Just Cause in Illinois or in Another Racing Jurisdiction

## SUBPART C: GENERAL CRITERIA

## Section

502.110 Criteria for Determining Eligibility  
502.115 Standards Required of All Applicants

## SUBPART D: OWNERS

## Section

502.120 Owners

## SUBPART E: TRAINERS AND ASSISTANT TRAINERS

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENTS

## Section

502.200 Trainers and Assistant Trainers  
 502.210 Prospective Trainers or Assistant Trainers  
 502.220 Workers' Compensation

## SUBPART F: JOCKEYS AND APPRENTICE JOCKEYS

## Section

502.230 Jockeys and Apprentice Jockeys  
 502.235 Apprentice Jockeys, Criteria for Eligibility  
 502.238 Apprentice Contract or Certificate

## SUBPART G: DRIVERS

## Section

502.250 Harness Driver  
 502.260 Prospective Harness Drivers  
 502.270 "Q" Licenses  
 502.280 "P" Licenses  
 502.290 "A" Licenses

## SUBPART H: OTHER LICENSEES

## Section

502.300 Veterinarians  
 502.320 Veterinary Assistant  
 502.350 Farriers (Blacksmiths)  
 502.380 Exercise Riders  
 502.400 Pony Person  
 502.450 Stable Foreman  
 502.500 Jockey Agents  
 502.600 Authorized Agents  
 502.650 Tack Shop Operators and Other Vendors  
 502.660 Vendor Helper  
 502.680 Thoroughbred Grooms  
 502.690 Harness Grooms  
 502.700 Hotwalker  
 502.790 Totalizator Employee

## SUBPART I: CONFLICTS OF INTEREST

## Section

502.800 General Provision  
 502.820 Dual Licensing  
 502.830 Limitations on License  
 502.840 Husbands and Wives  
 502.850 Transfer of a Horse

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Authorized by Sections 9(b) and 15 of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b) and 15].

SOURCE: Emergency rule adopted and codified at 6 Ill. Reg. 9711, effective July 27, 1982, for a maximum of 150 days; adopted and codified at 6 Ill. Reg. 13786, effective October 25, 1982; amended at 7 Ill. Reg. 5225, effective April 1, 1983; amended at 11 Ill. Reg. 20611, effective January 1, 1988; amended at 13 Ill. Reg. 1562, effective January 23, 1989; amended at 13 Ill. Reg. 4931, effective March 22, 1989; amended at 14 Ill. Reg. 17641, effective October 16, 1990; amended at 15 Ill. Reg. 11985, effective August 12, 1991; amended at 16 Ill. Reg. 12774, effective July 31, 1992; amended at 17 Ill. Reg. 19961, effective November 9, 1993; amended at 18 Ill. Reg. 11615, effective July 7, 1994; amended at 19 Ill. Reg. 5034, effective April 1, 1995; amended at 19 Ill. Reg. 17190, effective JAN 01 1995.

## SUBPART I: CONFLICTS OF INTEREST

## Section 502.820 Dual Licensing

~~The following kinds of dual licenses shall be prohibited:~~

- a) A person licensed as a jockey, veterinarian, totalizator employee, or farrier shall not be licensed in any other capacity, unless approved by the Board. The Board shall deny any application for a dual license when it determines that a conflict will exist between the privileges and duties of the two license types.
- b) A person licensed as an owner shall not be licensed as a jockey agent, nor shall any person licensed as a jockey agent be licensed as an owner.
- c) A person licensed as a racing official shall not be licensed in another capacity during the race meeting at which that person is serving as a racing official, except as provided in 11 Ill. Adm. Code 422.60.

(Source: Amended JAN 01 1995 19 Ill. Reg. 17190, effective JAN 01 1995)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Motor Fuel Tax
- 2) Code Citation: 86 Ill. Adm. Code 500
- 3) Section Numbers:           Adopted Action:  
500.305                   Amendment
- 4) Statutory Authority: 35 ILCS 505
- 5) Effective Date of Amendment(s): December 18, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 18, 1995
- 9) Notice of Proposal Published in Illinois Register: 06/30/95, 19 Ill. Reg. 8566
- 10) Has JCAR issued a Statement of Objections to these Amendments?  
No
- 11) Differences between proposal and final version: No differences between proposal and final version.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes requested.
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment(s): Current rules provide that reporting services or persons responsible for reporting a licensee's tax obligations under a power of attorney are not permitted to sign an application on behalf of the applicant. This has proven to be burdensome for taxpayers. The Department wishes to relax the rule and allow reporting services or other persons responsible for reporting a licensee's tax obligations under a power of attorney to sign an application on behalf of the applicant, provided that a properly executed power of attorney accompanies each application.
- 16) Information and questions regarding this adopted amendment shall be

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

directed to:

Jerilynn Gorden  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-6996

The full text of the Adopted Amendment begins on the next page:



## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 500

## MOTOR FUEL TAX

## SUBPART A: DEFINITIONS

## Section

500.100

Definitions

500.101

Definition of Receiver (Repealed)

500.102

Definition of Loss (Repealed)

## SUBPART B: MOTOR FUEL TAX

## Section

500.200

Basis and Rate of the Motor Fuel Tax

500.201

Licensure

500.202

Basis and Rate of Tax Payable by Receivers

500.203

Monthly Returns

500.204

Report of Loss of Motor Fuel

500.205

Daily Gallonage Record

500.210

Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers

500.215

Documentation of Tax-free Sales of Fuel Made by Licensed Receivers

500.220

Vehicles of Distributors Transporting Petroleum Products (Repealed)

500.225

Other Vehicles (Repealed)

500.230

Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers

500.235

Claims for Refund - Invoices

500.240

Sales of Special Fuel - Variation in Usage

500.245

Estimated Claims Not Acceptable

500.250

Claimants Owning Motor Vehicles (Repealed)

500.255

Detailed Answers

500.260

Revocation of License, Etc. - Notice - Hearing

500.265

Distributors' and Suppliers' Claims for Credit

500.270

Receivers' Claims for Credit

500.275

Procedure When Tax-Paid Motor Fuel is Returned to Licensee for Credit

500.280

Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems

## SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

## Section

500.600

Incorporation of the Retailers' Occupation Tax Regulations by Reference

**AUTHORITY:** Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 39b2 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b2].

**SOURCE:** Adopted July 3, 1931; amended at 2 Ill. Reg. 1, p. 97, effective December 31, 1978; amended at 3 Ill. Reg. 13, p. 98, effective March 25, 1979; amended at 4 Ill. Reg. 28, p. 568, effective June 1, 1980; codified at 8 Ill.

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

## SUBPART C: MOTOR FUEL USE TAX

## Section

500.300

Licensure

500.301

Special Motor Fuel Permits and Decals (Repealed)

500.302

Motor Carrier's Quarterly Report (Repealed)

500.305

Licenses and Decals

500.310

Display of License and Decals

500.315

Renewal of Decals and Licenses

500.320

Single Trip Permits

500.325

Licensure of Lessors and Lessees

500.330

Cancellation of License

550.335

Quarterly Payment and Reporting

550.340

Credits and Refunds

550.345

Records Requirements

550.350

Revocation

550.355

Protest Procedures

550.360

Audits

## SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

## Section

500.400

General Information

500.405

Due Date That Falls on Saturday, Sunday or a Holiday

## SUBPART E: GENERAL REQUIREMENTS APPLICABLE TO ALL LICENSES AND PERMITS ISSUED UNDER THE MOTOR FUEL TAX LAW

## Section

500.500

Licenses and Permits Are Not Transferable

500.501

Blenders' Permits Are Not Transferable (Repealed)

500.505

Changes of Corporate Officers

## SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

## Section

500.600

Incorporation of the Retailers' Occupation Tax Regulations by Reference

**AUTHORITY:** Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 39b2 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b2].

**SOURCE:** Adopted July 3, 1931; amended at 2 Ill. Reg. 1, p. 97, effective December 31, 1978; amended at 3 Ill. Reg. 13, p. 98, effective March 25, 1979; amended at 4 Ill. Reg. 28, p. 568, effective June 1, 1980; codified at 8 Ill.

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

Reg. 8612; amended at 10 Ill. Reg. 4540, effective February 28, 1986; amended at 11 Ill. Reg. 10295, effective May 18, 1987; emergency amendments at 13 Ill. Reg. 13271, effective August 7, 1989, for a maximum of 150 days; emergency expired January 4, 1990; amended at 14 Ill. Reg. 6826, effective April 19, 1990; amended at 15 Ill. Reg. 6305, effective April 16, 1991; amended at 15 Ill. Reg. 13538, effective August 30, 1991; recodified at 18 Ill. Reg. 4451; amended at 19 Ill. Reg. 3008, effective February 28, 1995; amended at 19 Ill. Reg. 11195, effective DEC 18 1995.

## SUBPART C: MOTOR FUEL USE TAX

## Section 500.305 Licenses and Decals

a) Applications for motor fuel use tax licenses and decals shall be made under oath and on forms provided by the Department. Information provided to the Department shall include:

- 1) a carrier's Federal Employer Identification Number (in the case of a sole proprietorship, the Social Security number of the owner);
- 2) owner, partnership or corporate name;
- 3) name, title and social security number of all officers, partners or owners;
- 4) legal business name (if different from subsection (a)(2));
- 5) physical location of the business;
- 6) mailing address of the business;
- 7) signature of the applicant. All applications must be signed by an officer, partner, or officers owner of the entity seeking licensure, or a an employee person who has the control, supervision or responsibility of filing returns and making payment of the tax is-a-partner-or-owner. Reporting services or other persons responsible for reporting a licensee's tax obligations under a power of attorney are not permitted to sign an application on behalf of any applicant provided that a properly executed power of attorney accompanies each application;
- 8) type of fuel(s) used by applicant;
- 9) number of decals required by the licensee;
- 10) decal fee;
- 11) for IFTA applicants, a statement of the existence of bulk storage facilities in all member jurisdictions; and
- 12) a statement that the applicant agrees to comply with reporting, payment, recordkeeping, and license display requirements, and all applicable regulations. IFTA applicants must agree that the base jurisdiction may withhold any refunds due if the applicant is delinquent on payment of motor fuel use taxes due any member jurisdiction or taxes owed to the Department.

b) Bonds are not required for first-time applicants. However, bond may be required for just cause, as determined by the

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

Department. Bonds may be required when a licensee fails to file timely reports, when he fails to remit the proper tax, when the Department has twice received a Non-Sufficient Funds check as payment, or when an audit indicates problems severe enough that, in the Director's discretion, a bond is required to protect the interests of the Department. If a bond is required, it shall be in the amount of \$1000, or twice the estimated average tax liability for the reporting period, whichever is greater.

c) Neither a license or decals shall be issued to any person who fails to file a return, or to pay the tax, penalty or interest for a filed return, or to pay any final assessment of tax, penalty or interest, as required by the Law, or as required by any other tax Act administered by the Department [20 ILCS 2505/39b47].

d) Persons required to file bonds with the Department must make payments by certified check.

e) Upon receipt of a complete application for a license and decals, including payment for decals, any required reinstatement fees and provision of an approved bond, if applicable, the Department will issue each applicant one license. In addition to the license, a minimum of two decals per commercial motor vehicle will also be issued. A license and decals are valid for a period of one calendar year.

(Source: Amended at 19 Ill. Reg. 17195, effective DEC 18 1995 )

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

Heading of the Part: Egg and Egg Products Act

Code Citation: 8 Ill Adm Code 65

Section Numbers: 65.90  
65.160

Date Originally Published in the Illinois Register: 10/6/95  
19 Ill Reg 13610

At its meeting on December 12, 1995, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends the Department of Public Health and the Department of Agriculture seek legislation to clarify in statute the jurisdiction of each agency with respect to the regulation of egg holding temperature.

Current statute does not specifically state that DPH has authority to regulate eggs, but it does give DPH broad authority to inspect and regulate establishments that sell food items. Based on those statutes, DPH has specified temperature requirements for potentially hazardous food items, which, by definition in the rules, includes eggs and egg products. DPH allows eggs to be held for 3 days at 45° if marked with the date first stored. By the expiration of the 3rd day, the eggs must be sold to consumers, used or destroyed.

The Egg and Egg Products Act does specifically authorize DOA to regulate egg temperature and DOA rules apply from the time of candling and grading until the eggs reach the consumer. Both DOA's statute and rules establish 45° or less as the egg holding temperature.

41° is the temperature recommended by the federal Food and Drug Administration in the 1993 Food Code.

As DOA generally enforces egg storage requirements from nest to retailer and DPH regularly inspects retail establishments, an informal dividing line between the purviews of the 2 agencies, and between applicability of the 2 different temperatures, seems to have developed. However, for the convenience of Illinois businesses attempting to adhere to both agencies' regulations, it would be best if the dividing line between DOA and DPH were clearly and statutorily defined. In the meantime, a formal interagency agreement might also be helpful.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION  
TO PROPOSED RULEMAKING

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

Heading of the Part: State Administration of the Federal Community Services Block Grant Program

Code Citation: 47 Ill Adm Code 120

Section Numbers: 120.50

Date Originally Published in the Illinois Register: 9/22/95 19 Ill Reg 13127

At its meeting on December 12, 1995, the Joint Committee on Administrative Rules objected to Section 120.50 of the above cited rulemaking because of lack of statutory authority for DCCA to require those local governments and not-for-profit organizations that function as Community Action Agencies (CAA) to maintain an administrative operation and staff. DCCA has not shown State or federal statutory authority to require a local agency to establish and maintain a centralized administrative operation when the local agency has determined that contractual arrangements are more appropriate and cost effective. If DCCA determines that the grant administrator's internal organization is a vital element in proper grant management, it should seek an amendment to the Illinois Economic Opportunity Act or other appropriate statute to outline structural requirements for a CAA.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed to be a refusal to respond under the Administrative Procedure Act and shall constitute withdrawal of this proposed rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION  
TO PROPOSED RULEMAKING

## DEPARTMENT OF PROFESSIONAL REGULATION

Heading of the Part: Private Detective, Private Alarm and Private Security Act of 1993

Code Citation: 68 Ill Adm Code 1240

Section Numbers: 120.10  
1240.15  
1240.16  
1240.40  
1240.46

Date Originally Published in the Illinois Register: 9/22/95 19 Ill Reg 13187

At its meeting on December 12, 1995, the Joint Committee on Administrative Rules objected to Sections 1240.10, 1240.15, 1240.16, 1240.40 and 1240.46 of the above cited rulemaking because the rulemaking violates the intent of the authorizing statute (225 ILCS 446/80) that an applicant for employee licensure can be scheduled for work as soon as "an application for a permanent employee registration card, including the required fingerprint card and fees" is submitted to DPR. This rulemaking's reliance on the livescan fingerprinting can cause as much as a 10 day delay in the submission of fingerprints. The delay in the ability to be scheduled for work that will be caused by a delay in fingerprinting is clearly not contemplated by this statute.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed to be a refusal to respond under the Administrative Procedure Act and shall constitute withdrawal of this proposed rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Food Service Sanitation Code

Code Citation: 77 Ill Adm Code 750

Section Numbers:	750.10	760.185	760.310
	750.110	750.186	750.2030
	750.120	750.187	750.2040
	750.140	750.189	750.3200
	750.160	750.240	
	750.180	750.250	

Date Originally Published in the Illinois Register: 1/20/95 19 Ill Reg 533

At its meeting on December 12, 1995, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that the Department of Public Health and the Department of Agriculture seek legislation to clarify in statute the jurisdiction of each agency with respect to the regulation of egg holding temperature.

Current statute does not specifically state that DPH has authority to regulate eggs, but it does give DPH broad authority to inspect and regulate establishments that sell food items. Based on those statutes, DPH has specified temperature requirements for potentially hazardous food items, which, by definition in the rules, includes eggs and egg products. DPH allows eggs to be held for 3 days at 45 if marked with the date first stored. By the expiration of the 3rd day, the eggs must be sold to consumers, used or destroyed.

The Egg and Egg Products Act does specifically authorize DOA to regulate egg temperature and DOA rules apply from the time of candling and grading until the eggs reach the consumer. Both DOA's statute and rules establish 45° or less as the egg holding temperature.

41° is the temperature recommended by the federal Food and Drug Administration in the 1993 Food Code.

As DOA generally enforces egg storage requirements from nest to retailer and DPH regularly inspects retail establishments, an informal dividing line between the purviews of the 2 agencies, and between applicability of the 2 different temperatures, seems to have developed. However, for the convenience of Illinois businesses attempting to adhere to both agencies' regulations, it would be best if the dividing line between DOA and DPH were clearly and statutorily defined. In the meantime, a formal interagency agreement might also be helpful.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Retail Food Store Sanitation Code

Code Citation: 77 Ill Adm Code 760

Section Numbers:	760.20	760.190	760.230
	760.110	760.195	760.240
	760.120	760.196	760.2030
	760.150	760.197	760.2040
	760.170	760.199	760.3200

Date Originally Published in the Illinois Register: 1/20/95 19 Ill Reg 551

At its meeting on December 12, 1995, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that the Department of Public Health and the Department of Agriculture seek legislation to clarify in statute the jurisdiction of each agency with respect to the regulation of egg holding temperature.

Current statute does not specifically state that DPH has authority to regulate eggs, but it does give DPH broad authority to inspect and regulate establishments that sell food items. Based on those statutes, DPH has specified temperature requirements for potentially hazardous food items, which, by definition in the rules, includes eggs and egg products. DPH allows eggs to be held for 3 days at 45° if marked with the date first stored. By the expiration of the 3rd day, the eggs must be sold to consumers, used or destroyed.

The Egg and Egg Products Act does specifically authorize DOA to regulate egg temperature and DOA rules apply from the time of candling and grading until the eggs reach the consumer. Both DOA's statute and rules establish 45° or less as the egg holding temperature.

41° is the temperature recommended by the federal Food and Drug Administration in the 1993 Food Code.

As DOA generally enforces egg storage requirements from nest to retailer and DPH regularly inspects retail establishments, an informal dividing line between the purviews of the 2 agencies, and between applicability of the 2 different temperatures, seems to have developed. However, for the convenience of Illinois businesses attempting to adhere to both agencies' regulations, it

would be best if the dividing line between DOA and DPH were clearly and statutorily defined. In the meantime, a formal interagency agreement might also be helpful.



## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## NOTICE OF FAILURE TO REMEDY

- 1) Heading of the Part: Illinois Public Accounting Act
- 2) Code Citation: 68 Ill Adm Code 1420
- 3) Section Numbers: 1420.35     Action: Refusal to Modify in response to JCAR objection
- 4) Notice of Proposal published in Illinois Register: 3/31/95
- 5) Date JCAR issued Statement of Objection: 10/17/95
- 6) Summary of Action taken by the Agency: The Committee objected because the Department of Professional Regulation exceeded its statutory authority. Section 9.1 of the Act allows out-of-state CPAs to practice in Illinois without a license, if the work is related to professional business incident to their regular practice. The definition of temporary practice in this rulemaking limits out-of-state CPAs to practice in Illinois with a license granted by another state only if the CPA is acting for a business located in Illinois that is a subsidiary, division or branch of a business housed in the other state. This definition is significantly narrower than the statute. The Department responded on 11/27/95, declining to modify the rulemaking.
- 7) JCAR action: At the 12/12/95 meeting, JCAR determined that the response failed to remedy the Objection. This Notice of the failure to remedy the situation that gave rise to the Objection is published in accordance with 1 Ill Adm Code 220.1300.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PUBLIC INFORMATION

## NOTICE OF LONG TERM CARE REIMBURSEMENT CHANGES

The Illinois Department of Public Aid, in conjunction with the Illinois Department of Mental Health and Developmental Disabilities, is proposing to implement the following changes to the long term care reimbursement system.

- The Department of Mental Health and Developmental Disabilities is implementing an Exceptional Care program for long term care facilities (ICF/MR) that are designated for SNF/Ped services, to address higher costs associated with providing services to clients with high medical needs.
- A change is being made in the reimbursement method for licensed nurse services in ICF/MR facilities, excluding ICF/DD-16 facilities. The change clarifies how the staff model for licensed nurses is determined for clients scoring medical levels II and III during an Inspection of Care survey.

The exceptional care and the licensed nurse calculation amendments are each expected to increase aggregate expenditures by approximately \$2.0 million for Fiscal Year 1996.

If any person or entity wishes to comment on this change, they may do so by sending comments to:

Illinois Department of Public Aid  
Bureau of Rules and Regulations  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762-0001

Information regarding these changes may be reviewed at any local Public Aid office in counties other than Cook County. In Cook County, information on this change may be reviewed at the Office of the Director, 310 South Michigan Avenue, Suite 1700, Chicago, Illinois. The information may be reviewed at all offices Monday through Friday from 8:30 A.M. until 5:00 P.M. This notice is being provided in accordance with federal requirement at 42 CFR 447.205.

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning interest rate information in the Illinois Register:

Name of Act: The Uniform Penalty and Interest Act Citation: 35 ILCS 735/3-1 et seq.

2. Summary of information:

Section 3-2(a) of the Uniform Penalty and Interest Act provides that interest paid by the Department of Revenue and interest charged to taxpayers by the Department shall be paid at the annual rate determined by the Department. That rate is the underpayment rate established under Section 6621 of the Internal Revenue Code.

Section 3-2(b) of the UPIA states that the interest rate shall be adjusted on a semiannual basis, on January 1 and July 1, based upon the underpayment rate going into effect on that January 1 or July 1 under Section 6621 of the Internal Revenue Code.

Recently, in Revenue Ruling 95-78, the Internal Revenue Service announced that the underpayment rate will be 9% for the period beginning January 1, 1996. Therefore, the interest rate paid by the Illinois Department of Revenue and the interest rate charged to taxpayers by the Illinois Department of Revenue will be 9% from January 1, 1996 through June 30, 1996.

3. Name and address of person to contact concerning this information:

Keith Staats  
Associate Chief Counsel - Income Tax  
Legal Services Office  
101 West Jefferson Street  
Springfield, Illinois 62794  
Telephone: (217) 782-7055

## CAPITAL DEVELOPMENT BOARD

## JANUARY 1996 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Rules of the Capital Development Board, 2 Ill. Adm. Code 1650

- 1) Rulemaking: Proposed Amendment

A) Description: Section 1650.1040, which applies only to IBA projects, is obsolete. In 1985 CDB began transferring title to IBA projects to the user agencies, shifting insurance responsibility. Therefore, CDB is repealing Section 1650.1040.

B) Statutory Authority: Implementing and authorized by the Administrative Procedure Act [5 ILCS 100].

C) Scheduled meeting/hearing dates: None at this time.

D) Date agency anticipates First Notice: February, 1996.

E) Affect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contact person for information:

Claire Gibson  
Wm. G. Stratton Building, 3rd Floor  
401 South Spring Street  
Springfield, IL 62706  
217/782-8729

- G) Related rulemakings and other pertinent information: See A) above.

## DEPARTMENT OF THE LOTTERY

## JANUARY 1996 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Lottery (General), 11 Ill. Adm. Code 1770

## 1) Rulemaking:

A) Description: The Department anticipates rulemaking to improve the efficiency of agency operations and clarify licensing requirements and procedures. Topics which may be addressed include liquidation of prizes by winner estates, background checks for license applicants, non-renewal of agent licenses, voluntary surrender of agent licenses, change of ownership procedures, lost or stolen ticket procedures, payment of disputed prize payments to court accounts, the manner of payment to ticket distributors, and priority of rules.

B) Statutory Authority: Sections 7.1 and 7.2 of the Illinois Lottery Law.

C) Scheduled meeting/hearing date: No meetings or hearings are scheduled.

D) Date agency anticipates First Notice: Unknown.

E) Affect on small business, small municipalities or not for profit corporations: Small businesses, small municipalities and not for profit corporations will be affected by the rulemaking only if such entities hold or apply for a Lottery license. The contemplated rulemaking will impose no additional obligations upon these entities.

## F) Agency contact person for information:

Name: Lisa A. Crites  
Address: Illinois Lottery  
201 E. Madison  
Springfield, IL 62702  
Telephone: 217/524-5253

G) Related rulemakings and other pertinent information: None.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 12, 1995 through December 18, 1995 and have been scheduled for review by the Committee at its January 23, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
1/25/96	Department of Alcoholism and Substance Abuse, Triplicate Prescription Control Program (77 Ill Adm Code 2080)	9/1/95 19 Ill Reg 12355	1/23/96
1/25/96	Department of Alcoholism and Substance Abuse, Schedule of Controlled Substances (77 Ill Adm Code 2070)	9/1/95 19 Ill Reg 12328	1/23/96
1/25/96	Secretary of State, Commercial Driver Training Schools (92 Ill Adm Code 1060)	10/13/95 19 Ill Reg 14365	1/23/96
1/25/96	Secretary of State, Issuance of Licenses (92 Ill Adm Code 1030)	10/13/95 19 Ill Reg 14395	1/23/96
1/25/96	Secretary of State, Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill Adm Code 1040)	10/13/95 19 Ill Reg 14358	1/23/96
1/25/96	Teachers' Retirement System of Illinois, The Administration and Operation of the Teachers' Retirement System (80 Ill Adm Code 1650)	10/6/95 19 Ill Reg 13840	1/23/96
1/25/96	Pollution Control Board, Water Use Designations and Site Specific Water Quality Standards (35 Ill Adm Code 303) (Docket R95-14)	9/8/95 19 Ill Reg 12589	1/23/96
1/25/96	Pollution Control Board, Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill Adm Code 219)	10/13/95 19 Ill Reg 14267	1/23/96



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

1/25/96	Pollution Control Board, Effluent Standards (35 Ill Adm Code 304) R95-14)	9/8/95 19 Ill Reg 12583	1/23/96
1/26/96	Department of Central Management Services, Merit and Fitness (80 Ill Adm Code 302)	10/20/95 19 Ill Reg 14504	1/23/96

## PROCLAMATIONS

95-580

## COMPASSIONATE FRIENDS WEEK

Whereas, the Compassionate Friends is an international mutual assistance and self-help organization offering support and understanding to bereaved parents and siblings; and

Whereas, the organization was founded in Coventry, England, in 1969 and the first chapter in the United States was organized in 1972; and

Whereas, in Illinois there are 28 Compassionate Friends chapters throughout the state; and

Whereas, on December 9, 1995, the Springfield chapter will hold its annual Candlelight Memorial Service; and

Whereas, more than 200 parents, siblings, family members, and friends will gather to remember their children who have gone on, but not been forgotten;

Therefore, I, Jim Edgar, Governor of the State of Illinois proclaim December 9-17, 1995, as COMPASSIONATE FRIENDS WEEK in Illinois and urge churches to ring their bells in memory of the children on December 9, 1995, from noon to 12:10.

Issued by the Governor December 1, 1995.

Filed by the Secretary of State December 7, 1995.

95-581

## FIVE HOSPITAL HOMEBOUND ELDERLY PROGRAM WEEK

Whereas, the Five Hospital Homebound Elderly Program was established in 1976 to provide comprehensive medical and social services necessary to keep elderly persons in their own homes as an alternative to hospitalization or nursing home placement; and

Whereas, the program provides more than 66,000 visits to 1,600 patients with the help of 110 professionals and 100 volunteers; and

Whereas, the Five Hospital Foundation was formed to raise funds to support the Five Long Term Care Program of the Five Hospital Homebound Elderly Program; and

Whereas, the Foundation Board will sponsor its annual Honorable Mr. and Mrs. William G. Stratton Humanitarian Award Dinner honoring John R. Meinert on Dec. 7, 1995, at the Palmer House Hilton;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim December 3-9, 1995, as FIVE HOSPITAL HOMEBOUND ELDERLY PROGRAM WEEK in Illinois in recognition of the staff and volunteers who have demonstrated compassion and dedication through the services that they provide for elderly citizens.

Issued by the Governor December 1, 1995.

Filed by the Secretary of State December 7, 1995.

95-582

## RANDOLPH COUNTY COMMEMORATED

Whereas, on October 5, 1795, Randolph County was formally established by proclamation of General Arthur St. Clair, Governor of the Northwest Territory; and

Whereas, Randolph County is the second oldest county in what became the State of Illinois in 1818; and

Whereas, Randolph County enjoys the unique distinction of having been under five flags including the French flag, the British flag, the Virginia State flag, the United States flag, and the Illinois State flag; and

Whereas, Randolph County gave the State of Illinois its first territorial governor, its first governor and lieutenant government, its first federal judge, its first senator, and several of its early representatives and members of the Supreme Court; and

Whereas, Randolph County is celebrating its bicentennial year;

Therefore, I, Jim Edgar, Governor of the State of Illinois, commend Randolph County on its accomplishments over the past 200 years, its dedication to further the quality of life for Illinois citizens and extend my best wishes for continued prosperity.

Issued by the Governor December 1, 1995.

Filed by the Secretary of State December 7, 1995.

95-583

#### RAKKASAN WEEK

WHEREAS, the 187th Glider Infantry fought with valor in New Guinea, the Philippine Islands and were among the first American Forces to enter and occupy Japan on August 30, 1945; and

WHEREAS, the 187th participated in the occupation of Japan from 1945 to 1949, when it returned to Fort Campbell, Kentucky; and

WHEREAS, the 187th Airborne Regimental Combat team went to Korea in September 1950 where it participated in combat jumps at Munsan-Ni and Sunchon and also participated in the taking of Pyongyang, the capitol of North Korea; and

WHEREAS, the 187th fought the bloody Battle of "Hamburger Hill" in Vietnam; and

WHEREAS, the 187th made the furthest penetration into Iraq during the Desert Storm Operation; and

WHEREAS, the 187th stands ready today to fight for the United States as an element of the 101st Airborne division; and

WHEREAS, the 187th is the only Airborne Unit to serve in World War II, Korea, Lebanon, Vietnam, and Desert Storm, using helicopters, air assault, parachutes and gliders;

THEREFORE, I, Jim Edgar, Governor of the State of Illinois, proclaim August 17-24, 1996, as RAKKASAN WEEK in Illinois in honor of their valiant efforts to preserve the democracy in which we live and for their continued commitment to ensure the well-being of our citizens.

Issued by the Governor December 5, 1995.

Filed by the Secretary of State December 7, 1995.

95-584

#### SPECIAL ELECTION FOR REPRESENTATIVE IN 104TH CONGRESS FROM SECOND CONGRESSIONAL DISTRICT

Whereas, On the 12th day of December, 1995, an election was held in the State of Illinois for the election of the following officer, to-wit:

One (1) Representative in Congress, to-wit: One (1) Representative in

Congress from the Second Congressional District of the State for the unexpired term.

Whereas, In pursuant of Law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this the 14th day of December, 1995, canvassed the same, and as a result of such canvass, did declare elected the following named person to the following named office.

REPRESENTATIVE TO REPRESENT THE PEOPLE OF THE STATE OF ILLINOIS  
IN THE 104TH CONGRESS OF THE UNITED STATES

#### SECOND CONGRESSIONAL DISTRICT

(To fill the unexpired term)

JESSE JACKSON, JR.

Now, Therefore, I, Jim Edgar, Governor of the State of Illinois, in conformity to statute in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing person duly elected to the office as set out above

Issued by the Governor December 14, 1995.

Filed by the Secretary of State December 14, 1995.

95-585

#### FIVE HOSPITAL HOMEBOUND ELDERLY PROGRAM WEEK

Whereas, the Five Hospital Homebound Elderly Program was established in 1976 to provide comprehensive medical and social services necessary to keep elderly persons in their own homes as an alternative to hospitalization or nursing home placement; and

Whereas, the program provides more than 66,000 visits to 1,600 patients with the help of 110 professionals and 100 volunteers; and

Whereas, the Five Hospital Foundation was formed to raise funds to support the Five Hospital Long Term Care Program of the Five Hospital Homebound Elderly Program; and

Whereas, the Foundation Board will sponsor its annual Honorable Mr. and Mrs. William G. Stratton Humanitarian Award Dinner honoring John R. Meinert on Dec. 7, 1995, at the Palmer House Hilton;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim December 3-9, 1995, as FIVE HOSPITAL HOMEBOUND ELDERLY PROGRAM WEEK in Illinois in recognition of the staff and volunteers who have demonstrated compassion and dedication through the services that they provide for elderly citizens.

Issued by the Governor December 1, 1995.

Filed by the Secretary of State December 15, 1995.

95-586

#### PEARL HARBOR REMEMBRANCE DAY

Whereas, on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii; and

Whereas, more than 2,000 citizens of the United States were killed and more than 1,000 citizens of the United States were wounded in the attack on Pearl Harbor; and

Whereas, the attack on Pearl Harbor marked the entry of the United States



of America into World War II; and

Whereas, the veterans of World War II and all other people of the United States commemorate December 7 in remembrance of the attack on Pearl Harbor; and

Whereas, commemoration of the attack on Pearl Harbor will instill in all people of the United States a greater understanding and appreciation of the selfless sacrifice of the individuals who served in the Armed Forces of the United States during World War II;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim December 7, 1995, as PEARL HARBOR REMEMBRANCE DAY in Illinois and call upon the people of our state to observe this solemn occasion with appropriate ceremonies.

Issued by the Governor December 6, 1995.

Filed by the Secretary of State December 15, 1995.

## Vol. 19, No. 52

## ISSUES INDEX

December 29, 1995

Rules acted upon during the quarter of October 1 through December 31, 1995 are listed in the Issues Index by Title number, Part number and Issue number. For example, 32 Ill. Adm. Code 610 published in Issue 42 will be listed as 32-610-42. This Issues Index supplements the Sections Affected and Cumulative Indexes published in the October 13, 1995 Illinois Register (Issue 41). Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-7017.

PROPOSED	ADOPTED	
11-1320-47	77-330-42	50-2012-41
11-1431-47	77-340-42	50-2018-42
14-510-50	77-350-42	50-6602-46
17-810-50	77-390-42	56-2650-45
17-1090-41	77-665-49	59-132-49
20-103-46	77-670-42	68-1150-48
20-801-51	77-2510-47	68-1270-48
20-1770-45	80-250-50	77-1110-44
23-1-50	80-302-42	68-1320-52
23-175-41	86-130-41,42,50	68-1380-48
23-185-41	86-140-42,50	68-1420-48
23-3030-41	86-150-50	68-1450-50
23-3040-51	86-160-50	68-1455-50
32-609-43	86-215-46	68-1480-48
32-610-42	86-3000-45	77-2510-48
35-212-48	89-104-45	77-661-46
35-219-41	89-112-41	77-672-48
35-807-41	89-140-42,	80-310-49
35-810-42	43,46,47,49,51	83-105-51
35-811-41	89-144-51	83-525-42
35-816-41	89-146-42	83-755-52
38-110-50	89-147-51	83-773-42
38-180-50	89-160-45	83-790-42
38-190-50	89-170-46,47,48	86-500-52
38-205-50	89-301-44	89-101-46
38-399-45	89-302-44,50	89-104-46
41-1050-41	89-590-45,47	89-110-43
41-180-44	89-572-51	89-112-46
44-5000-45	89-676-51	89-113-43
50-916-46,48	89-682-45	89-114-43
50-930-43	89-895R-46	89-116-51
50-2008-50	92-107-52	89-120-43
50-2801-41	92-171-52	89-140-41,45,46,
56-250-44	92-172-52	50,
56-350-51	92-173-52	89-148-50
56-2520-45	92-177-52	89-152-49
56-2765-48	92-178-52	89-153-49
68-1160-44	92-179-52	89-240-48
68-1470-48	92-180-52	89-431-52
77-205-45	92-1030-41	89-505-42
77-300-42	92-1040-41	89-553-46
	92-1060-41	89-830-46
		89-835-45
		50-951-52
		50-2007-50
		92-446-46
		92-449-50

## EMERGENCY

20-801-51  
56-2765-48  
77-670-42  
77-1110-44  
77-2510-43  
89-104-45  
89-112-44,47,49  
89-117-40  
89-140-42  
89-160-45  
89-170-44,47,49  
89-302-50

## PEREMPT.

8-125-42,46,51  
80-310-43

## WITHDRAWN

86-480-51



**ILLINOIS REGISTER**  
**ADMINISTRATIVE CODE ORDER FORM**

PLEASE USE THIS FORM FOR ALL ORDERS OR TO NOTIFY US OF CHANGE OF ADDRESS  
ALL ORDERS ARE PAYABLE IN ADVANCE OR BY VISA OR *Discover*  
CHECKS AND/OR MONEY ORDERS ARE PAYABLE TO SECRETARY OF STATE

MICROFICHE SETS OF THE ILLINOIS REGISTER @\$200.00 PER SET  
\_\_1977-1978 \_\_1979 \_\_1980 \_\_1981 \_\_1982 \_\_1983 \_\_1984 \_\_1985 \_\_1986  
\_\_1987 \_\_1988 \_\_1989 \_\_1990 \_\_1991 \_\_1992 \_\_1993 \_\_1994

CUMULATIVE INDICES TO THE ILLINOIS REGISTER @\$1.00 each:  
\_\_1981 \_\_1982 \_\_1983 \_\_1984 \_\_1985 \_\_1986 \_\_1987 \_\_1988 \_\_1989

SECTIONS AFFECTED INDICES TO THE ILLINOIS REGISTER @\$1.00 each:  
\_\_1984 \_\_1985 \_\_1986 \_\_1987 \_\_1988 \_\_1989

CUMULATIVE/SECTIONS AFFECTED INDICES @\$5.00 each:  
\_\_1990 \_\_1991 \_\_1992 \_\_1993

BACK ISSUES OF THE ILLINOIS REGISTER (current year only) @\$10.00 each:

\_\_\_\_\_  
(Volume Number)      (Issue Number)      (Issue Date)

ANNUAL SUBSCRIPTION TO THE ILLINOIS REGISTER @\$290.00 (52 ISSUES)  
\_\_NEW      \_\_RENEWAL

ANNUAL SUBSCRIPTION AND SUPPLEMENT TO THE ILLINOIS ADMINISTRATIVE CODE; PUBLISHED  
QUARTERLY @\$290.00

_____ (1994 Code & 2 Supplements)	_____ (Quantity)	_____ (1995 Supplements)	_____ (Quantity)
---	---------------------	--------------------------------	---------------------

TOTAL AMOUNT OF ORDER: \$ \_\_\_\_\_

\_\_Check \_\_Visa \_\_Discover      Card Number: \_\_\_\_\_  
Expiration Date: \_\_\_\_\_      Signature \_\_\_\_\_

(IF CHANGE OF ADDRESS, PLEASE LIST THE OLD AND NEW ADDRESS:

\_\_\_\_\_  
(NAME) (PLEASE TYPE OR PRINT)

\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(CITY)                      (STATE)                      (ZIP CODE)                      (TELEPHONE NUMBER)

**GEORGE H. RYAN**  
**SECRETARY OF STATE**

Address:  
Index Department  
111 E. Monroe  
Springfield, IL 62756

14

UNITED STATES DEPARTMENT OF AGRICULTURE  
BUREAU OF PLANT INDUSTRY

PLEASE USE THIS FORM FOR ALL ORDERS FOR PLANT MATERIALS

1. NAME OF ORDERER (PRINT FULL NAME)  
2. ADDRESS (PRINT FULL ADDRESS)  
3. CITY (PRINT CITY AND STATE)

4. PHONE NUMBER (PRINT)  
5. ORDER NO. (PRINT OR TYPE)

6. QUANTITY (PRINT)  
7. UNIT (PRINT)

8. SPECIES (PRINT FULL NAME)  
9. VARIETY (PRINT FULL NAME)

10. SOURCE (PRINT)  
11. COMMENTS (PRINT)

12. DATE OF ORDER (PRINT)  
13. NAME OF ORDERER (PRINT FULL NAME)

14. ADDRESS (PRINT FULL ADDRESS)  
15. CITY (PRINT CITY AND STATE)

16. PHONE NUMBER (PRINT)  
17. ORDER NO. (PRINT OR TYPE)

18. QUANTITY (PRINT)  
19. UNIT (PRINT)

20. SPECIES (PRINT FULL NAME)  
21. VARIETY (PRINT FULL NAME)

22. SOURCE (PRINT)  
23. COMMENTS (PRINT)

24. DATE OF ORDER (PRINT)  
25. NAME OF ORDERER (PRINT FULL NAME)

26. ADDRESS (PRINT FULL ADDRESS)  
27. CITY (PRINT CITY AND STATE)

28. PHONE NUMBER (PRINT)  
29. ORDER NO. (PRINT OR TYPE)

30. QUANTITY (PRINT)  
31. UNIT (PRINT)

32. SPECIES (PRINT FULL NAME)  
33. VARIETY (PRINT FULL NAME)

34. SOURCE (PRINT)  
35. COMMENTS (PRINT)

36. DATE OF ORDER (PRINT)  
37. NAME OF ORDERER (PRINT FULL NAME)

38. ADDRESS (PRINT FULL ADDRESS)  
39. CITY (PRINT CITY AND STATE)

40. PHONE NUMBER (PRINT)  
41. ORDER NO. (PRINT OR TYPE)

42. QUANTITY (PRINT)  
43. UNIT (PRINT)